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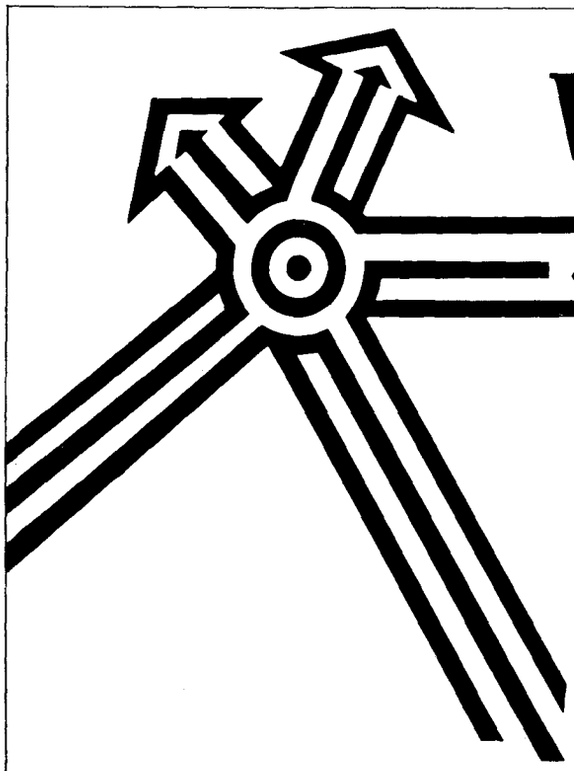

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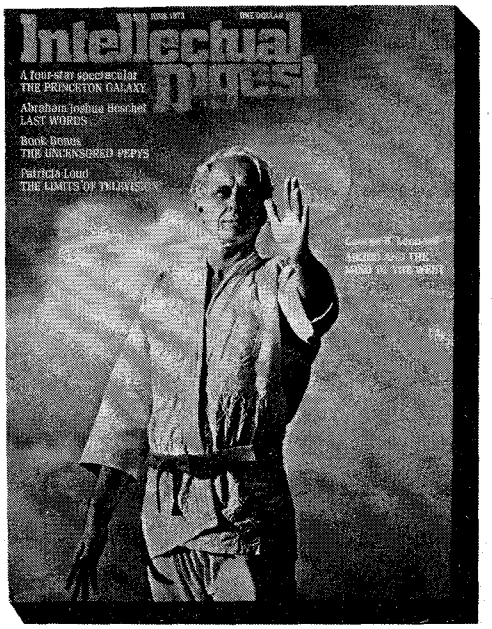

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TRB

from Washington
September 8, 1973

The Fatal Flaw

Let's face it, the American Constitution is out of date. Watergate is exquisitely timed to illustrate this. It leaves us with the prospect of a vindictive, combative, self-pitying, half-President for three years and offers us the solution of impeachment, which is no solution at all. It is doubtful if the public yet realizes the fix we're in. "I think it is the worst crisis of the presidency that the United States has ever seen," says James MacGregor Burns.

We're past Labor Day, Congress has been out in the country to assess the damage and is back in town, and now the show starts all over again. The trouble is that there is no substitute for presidential leadership in our system of government and yet, in this time of howling change, for three years we are going to have a crippled President. It is no fun to put this down and I hope I am wrong. But consider the situation.

One proposal is impeachment. It won't work. A logical case can be made for it. After all, it is in the Constitution and we respect the Constitution. The trouble is the sanction is so severe. Impeaching a President isn't like voting out an unpopular ministry after a scandal as they would in Canada under the flexible parliamentary system. Canada could have got this thing all over in three months. But after 200 years of checks and balances in the United States, we discover that our rigid system has no fire escape.

Judge Sirica has ruled against the President in the first round and made the eminently sensible suggestion of reading the tapes and deciding for himself whether they are pertinent to the Watergate inquiry. Mr. Nixon says "no" and the matter presumably will go to the Supreme Court. The House might be forced to impeach, but we doubt it.

Millions would vote "yes" if it were just to get rid of the President in an election but to stigmatize him with moral obliquity in an impeachment is something else again. Some of us think we have seen the face of fascism peering out of the Watergate shadows, but most people are just uncertain. Almost certainly Congress won't act. Impeachment is too much like executing Charles I, rather than merely voting out an unsuccessful Herbert Hoover.

The trouble is that we are stuck with Richard Nixon until 1977.

The Nixon lawyers are sheltering behind this very reluctance to impeach. The President's attorney, Charles Alan Wright, tells Judge Sirica that the courts are powerless to compel a President to reveal secret communications once he has unilaterally determined that this would be contrary "to public interest." In 1971 the dairy lobby made collective contributions to the Nixon funds and the administration suddenly reversed itself and raised milk supports, costing consumers billions. Consumer groups want the papers on the subject. The White House says no. To get the papers or the tapes, lawyer Wright tells the judge, the procedure is simple—all you must do is impeach.

It is almost a taunt. In reply Archibald Cox says Mr. Nixon's refusal to cooperate could "frustrate prosecution of wrongdoers in high places." Is the President the sole judge of executive privilege? Standing under the brutal sun of San Clemente that accentuates his eyeshadows and jowls, Mr. Nixon told the press once more that he would abide by a definitive Supreme Court order. The controlling word is "definitive." Would he consider a narrow opinion definitive, or a split decision? The White House doesn't say. The constitutional crisis continues.

The restless President jumps from San Clemente to Camp David to Key Biscayne. He registers strain. He combatively refuses to acknowledge mistakes. A thoughtful writer like James Reston of *The New York Times* urges us all to make the best of it, and implores the President to be more conciliatory. But Mr. Nixon isn't going to release those tapes. He defies Congress. And every time he seems to be regaining momentum his wheels spin again in the sand.

After one brief, mysterious flirtation with the Moynihan family assistance plan the Nixon administration has shown a steadfast devotion to the existing order, including the existing distribution of wealth and advantages. Watergate shows how it works. One after another giant corporation comes forward sheepishly to acknowledge illegal contributions to the GOP. It was half shakedown, half protection money. Mr. Nixon himself reveals how his rich buddies Robert Abplanalp and C. G. Rebozo helped him swing his Key Biscayne-San Clemente deals, probably legal but illustrating the strategies of the affluent. Influence is not confined to the White House. Campaign contributors permeate Congress, too. That is why legislation for the poor and unprotected so often seems to stop. Why is America the only industrialized country on earth without a national system of health insurance?

Many think Watergate will soon pass away. The public is bored with it. Our view, alas, is gloomier than this. It is the long range that worries us. Doubtless we can survive even three years of deadlock and frustration in Washington. Possibly the Democrats will get a veto-proof majority in Congress next year and they may even summon up enough guts and leadership to pass reform legislation.

In the short run, Mr. Nixon has two problems: to satisfy the courts and to satisfy the public. "The loss of the peoples' trust is the one mortal disaster from which there can be no real recovery," writes Emmet Hughes, former Eisenhower adviser, in his book *The Living Presidency*. We think that in the short run Mr. Nixon is sacrificing trust by fighting to keep the tapes secret.

But how about the long run? Unless the Constitution is modernized the fatal flaw will remain right there. Maybe some extraconstitutional countervailing balances can be created—stronger political parties or the requirement that the President come before Congress at intervals for direct questioning. Something like that. Otherwise before long we see the trend of the last half century resumed—the trend of presidential aggrandizement.

Short of impeachment (and we see no chance of that), Mr. Nixon is likely to get away with it in the sense that his misconception of his office will stand. The precedent will be there long after his disagreeable personality has passed from the scene. Unless the checks are put into law now some future leader—a führer perhaps—will use them.

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The Sirica Decision

The first battle in the courts over the Watergate tapes appears to have been won by Special Prosecutor Cox, who announced promptly that he was "very pleased" with Judge John Sirica's directive that the President produce nine requested tapes for the judge's personal examination. But the special prosecutor may find that this opening skirmish has taken him far short of victory. While Judge Sirica rejected two claims made by President Nixon's lawyers, the effect of his ruling is to fragment the case so that no less than two trips up the judicial ladder to the Supreme Court will be necessary before the availability of the tapes is resolved. That means that even if Cox ultimately wins, the day when the grand jury gets to hear the tapes is far off—too remote for the 23 citizens who have been hearing the testimony presented by the special prosecutor's predecessors and by his own crew of lawyers, and whose own term as grand jurors expires in December of this year.

The ultimate issue on which Professors Cox and Wright had asked the judge to rule was whether the recordings of eight specific meetings conducted in the President's offices and of one telephone conversation (between the President and John Mitchell) should be given to the federal grand jury under court order. The President's lawyers argued initially that no one but the President has any business deciding whether records of "his most confidential conversations with his intimate advisers" should be seen by someone else. A corollary to this argument was that the Constitution's separation of powers placed the President out of reach of a court's mandate. Only on these two propositions was Judge Sirica's decision "definitive." He ruled that a President's claim of executive privilege is no different from any other legal contention made by a witness who has evidence which he prefers not to disclose. It is the court's job, said the judge, to decide whether executive privilege applies. "Executive fiat is not the mode of resolution." If the President were to have the last word, totally unreviewable by any judge, that abdication by the courts, "would dishonor the genius of our constitutional system and breed unbearable abuse."

As for the argument that a President cannot be ordered about by a coordinate branch of government, Judge Sirica recognized that a court lacked "physical power" to force a President to obey. But, he

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said, the "good faith of the Executive" (shown by President Truman's readiness to accept the Supreme Court's decision in the 1952 steel seizure case) made it likely that the President would heed a court order rather than challenge the judiciary to enforce its decree. Moreover, said the judge, "it would tarnish the Court's reputation to fail to do what it could in pursuit of justice."

On these two preliminary matters the judge's decision was forthright, workmanlike and plainly right. But the main body of the case remained: having established its authority to review a claim of executive privilege and to issue an order to the President, *should* the court direct that the nine specified tapes be given to the grand jury? Prosecutor Cox had argued that the testimony given to the Ervin committee made it virtually certain that those tapes contain evidence of guilt or innocence of the crimes being investigated by the grand jury. He had also maintained that by authorizing the participants in the meetings and conversations to testify about them before the Ervin committee and the grand jury, the President had waived any claim that they are confidential. It would be "capricious," Cox said, if the law allowed the President "to withhold the most complete record available to supplement faulty recollections, resolve contradictions, and fill in important details."

In dealing with these hard questions Judge Sirica noted that testimonial privileges are "disfavored," but that there is "a need to favor the privacy of Presidential deliberations." Then he recognized that, on the facts of Watergate, the grand jury's "need" for the evidence was "well documented and imposing." And he went from there to an assertion that a claim of privilege "*may* be ruled inapplicable" if the privilege is used, as prosecutor Cox said was done here, "as a cloak for serious criminal wrongdoing."

Having unburdened himself of these generalities, Judge Sirica took note of the statement made in the President's brief that *his* role in the conversations with Dean, Mitchell, Haldeman and Ehrlichman was pursuant to his constitutional duty to "take care that the laws be faithfully executed." Since the judge was "extremely reluctant to finally stand" against the President "on any but the strongest possible evidence," he ruled that he is "unable to decide the question of privilege without inspecting the tapes." And so the bottom line is not that the tapes—or any part of them—go to the grand jury, but that they must be given to Judge Sirica for him to sift out what may not be communicated to anyone else.

Nothing in the opinion gives any real clue as to what standard Judge Sirica proposes to use if higher courts let him go through this sifting process. Will he give the grand jury all discussions of Watergate on the theory that any conversation involving Dean, Mitchell, Haldeman and Ehrlichman on that subject is relevant to a criminal investigation? Or will he only pass through conversations that appear, on their face, to be "a cloak for serious criminal wrongdoing"? Will he assume that executive privilege applies only when a conversation clearly relates to foreign policy or "national security" matters? Or will any statement by the President, other than a flagrantly conspiratorial one, be presumed to be privileged as in execution of his constitutional duties? The opinion is inscrutable on this critical subject, although there cannot be any serious doubt that if Sirica's present ruling survives the two appeal stages it must go through, whatever standard he ultimately uses will be objected to by President Nixon's lawyers, who may then seek another appeal from the decision once the grand jury is authorized to receive any portion of the contested tapes.

That possibility, besides requiring a second round of appeals, also points up the inadequacy of Judge Sirica's *in camera* procedure. If Special Prosecutor Cox never hears the full tapes, how can *he* know whether the judge has kept too much from the grand jury so as to seek review of that part of a ruling in an appellate court? Sirica said that if "privileged and unprivileged evidence are so inextricably connected that separation becomes impossible," he will keep it all away from the grand jury. But will that decision be made without hearing from Mr. Cox? The Supreme Court said in 1969 that a procedure which keeps one side in the dark regarding evidence which the other side in litigation gives to the judge is not the best means "for attaining justice in a given case." Accordingly when the government engages in illegal wiretapping or eavesdropping, it is not enough for it to give the records of its illegal overhearings to the judge for a secret, one-sided determination. The Court has said that, particularly when factual issues are complex, "adversary inquiry" and "well-informed advocacy" are essential.

There are other technical difficulties created by the judge's effort to walk the tightrope between directing full disclosure and sustaining the President's claim of confidentiality. The western White House announced several hours after the decision that the President would not comply with Judge Sirica's decision, but it is not at all clear that the President has an obligation to appeal or that he intends to seek appellate review. (On the supposition that only the President would want to appeal from the decision, the judge's order delayed its effective date for five days "in which time respondent [*i.e.*, the President] may perfect an appeal." It was apparently inconceivable to Judge Sirica that prosecutor Cox might be dissatisfied.) Well-established law—decided by a unanimous Supreme Court as recently as 1971—is that "one who seeks to resist the production of desired information" sought by grand jury subpoena may appeal only *after* he is cited for contempt. That means that Judge Sirica must first find that the President has disobeyed his order of August 29 and cite him for contempt, before the Presi-

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dent's lawyers can have an appellate court decide whether that order is right. No similar doctrine prevents prosecutor Cox from seeking to appeal the judge's refusal to direct that the tapes be given to the grand jury. Since 1968 a prosecutor has a right to obtain review in a court of appeals of any decision "excluding evidence" from consideration by a grand jury —which is what Judge Sirica's decision substantially does. The President's lawyers might then "cross-appeal" and raise issues which were decided against them.

Another reason the special prosecutor might be well advised to seek an appeal from Judge Sirica's decision is to preserve, for ultimate consideration by the Supreme Court, the argument that Judge Sirica failed to discuss, but that some observers believe is Cox's strongest point—*i.e.*, that any possible claim of privilege as to these specified conversations was relinquished when the President authorized the testimony of the other participants. If Mr. Cox takes no appeal, that argument cannot be used because it does not justify Judge Sirica's middle-of-the-road result. Yet it is a legal position that might well appeal to technicians on the Supreme Court such as Justices Stewart, White, Blackmun and Powell—some of whom may be casting the deciding votes when the highest court considers the case.

One of the most surprising aspects of the course Judge Sirica chose is that it is a peculiarly unnecessary fragmentation of the case. By directing that *all* the requested tapes be given to him initially, the judge was departing from the procedure that is preferred and is usually followed when a prosecutor claims a privilege as to one portion of evidence that he must otherwise surrender. Judges usually tell prosecutors to hand over the full document to the other side and excise, for the judge's examination, only the part which the prosecutor believes cannot be disclosed. Had Judge Sirica followed that procedure in this case, he would have ordered all the tapes delivered to the grand jury, with an authorization to the White House to withhold, for the judge's preliminary look, any part of a conversation that was super-secret or not related to Watergate —if that is to be his standard of privilege.

Finally, the judge's order that the full tapes be given to him may present the White House with a most embarrassing dilemma reaching beyond technical questions of appealability. There have been references in the President's letters to the Ervin committee and in the briefs filed with Judge Sirica by his lawyers to the candor and frankness of presidential meetings. In Professor Wright's brief presidential conversations are said, by their very nature, to contain "spontaneous, informal, tentative, and frequently pungent comments." Is it just remotely possible that among those whom the President, or his closest aides, described most "pungently" was a district court judge named John J. Sirica?

Soviet MIRVs

After four years of dire warnings from Secretary of Defense Melvin Laird that the Soviet Union was on the verge of testing multiple independently targetable reentry vehicles (MIRVs), his successor, James Schlesinger, announced it had finally happened. He estimated Soviet testing would continue for two or more years and that an operational Soviet MIRV would subsequently be installed on a new generation of missiles. The Russian tests were conducted with two experimental intercontinental ballistic missiles (ICBMs). One was designated by Schlesinger the SSX-18—a heavy missile with at least six warheads that could be a replacement for the SS-9. The other, the SSX-17, is smaller (about the size of a Minuteman ICBM); it is thought to have four warheads. There was also "flimsy evidence," Schlesinger said, that MIRVs might have been tested on two other ICBMs. Significantly none of the MIRVs were tested on a submarine-launched ballistic missile (SLBM).

A favorite conjecture of Pentagon scaremongers envisions a Soviet surprise attack with heavy ICBMs armed with MIRVs aimed at US Minuteman force; they claim that all but a handful of the US' 1000 ICBMs would be wiped out. Laird pressed this scenario into service when he was trying to scare up support for the Safeguard anti-ballistic missile system, but when the ABM treaty limited the United States to just two sites—only one of which could defend ICBMs—the scenario was retired from active duty. The Pentagon and its publicists in the press have occasionally tried to call it back into service but with little effect. MIRVs pose absolutely no threat to the 41 submarines of the US Polaris and Poseidon force, and the Strategic Air Command's bombers can be launched in the event of an ICBM attack because such a strike will be detected by US satellite and land-based early warning sensors. Hence even if Soviet MIRVs could destroy *all* US ICBMs, the Soviet Union would still not have a first-strike capability. Schlesinger said as much at his press conference: "In terms of obtaining a first-strike capability, such a capability, if properly understood in terms of a disarming capability, is obtainable by neither side, neither the Soviets nor ourselves."

The Soviet MIRV test came as no surprise. Less than a month before Schlesinger's press conference, "high-ranking US officials" leaked to the press that the Soviets were "close to developing a true MIRV-type warhead for their long-range missiles." Even so, Schlesinger's public confirmation that Russia had in fact tested MIRVs was bad news. If the United States responds by escalating its weapons building, it would be back again in that familiar arms race spiral. Indeed the Soviet MIRV test can be seen as a belated (by five years) response to US MIRV programs. The US has a considerable technological lead over the Soviet Union in such programs, and is currently adding MIRVs to

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its ICBMs and SLBMs at the rate of three *a day*. In his state of the world message in May President Nixon pointed out that MIRVs had given America "a 2-to-1 lead in numbers of warheads." At the rate we are building our arsenal, our lead will be 3 to 1 before the Soviet Union can deploy a first MIRV.

The Soviet MIRV test, then, carries with it no immediate threat to the US ICBM force. Schlesinger estimates that the Soviet Union would not be able to match US numbers of warheads until 1979. One must concede, however, that the Soviet Union has the technological and industrial *potential* to catch up, but whether it has the *incentive* to do so is another matter. If we have learned anything from nearly three decades of the nuclear arms race, it is that the Soviet Union can and will match us if we enlarge our nuclear arsenal. On the other hand Russia has proved agreeable to arms control measures. The message then is clear. We cannot diminish the Soviet potential for nuclear armament, but we can reduce its incentive to arm through bilateral and unilateral steps which reduce tensions and nuclear weaponry.

At the summit meeting in Washington this past June President Nixon and General Secretary Brezhnev signed three agreements; the most important established "basic principles of negotiations on the further limitation of strategic offensive arms." The key point in this statement was a pledge to "make serious efforts to work out the provisions of the permanent agreement on more complete measures on the limitation of strategic arms with the objective of signing it in 1974." Both leaders also promised that their nations "will be guided by the recognition of each other's equal security interests and by the recognition that efforts to obtain unilateral advantage, directly or indirectly, would be inconsistent with the strengthening of peaceful relations." If the United States is to live up to the spirit of this agreement, it must not use the Soviet MIRV test as a pretext for fueling the arms race.

Schlesinger, unfortunately, raised the possibility that the United States might pursue the so-called "hard-target" MIRV which Congress refused to authorize last year. Such a weapon, if it were developed, would directly threaten the Soviet retaliatory force: a clear violation of our agreeing to recognize "equal security interests." Although Schlesinger eschewed trying to attain a first-strike posture, he did not rule out developing and deploying "certain precision instruments that would be used in a limited counterforce role." Given the long lead times involved in testing and then deploying a new weapon, how will the Soviets know that "hard-target" MIRVs intended for a "limited counterforce role" might not be produced in larger numbers in pursuit of what Herman Kahn calls a "splendid first-strike capability"? They can no more judge our intentions when they see us testing a new weapon than we can judge theirs. Recent history shows, however, that if we appear to be expanding our arsenal the Soviet Union eventually will match what we do.

The Nixon administration is now faced with the price of its failure to seek MIRV controls during the first phase of the strategic arms limitations talks. Schlesinger claims that the Soviets "have not been particularly interested in limitations in MIRVing," but then neither has the US. In 1970 the President's advisory panel on arms control headed by John J. McCloy, who no one can call "soft" on defense, recommended we seek MIRV controls, but the advice was ignored. Members of Congress, notably Senators Brooke and Humphrey, warned the administration of the dangers of a MIRV race, but they, too, were ignored. Although the US did propose a ban on MIRV testing and production, it insisted such a ban could only be verified by on-site inspections. The Soviet Union, whose antipathy to such "invasions of sovereignty" is well known, countered with a similar proposal but without on-site inspections. And there the matter stood.

The matter of on-site inspections should no longer be an obstacle to negotiators. The Nixon-Brezhnev statement of negotiating principles stipulates that "limitations on strategic offensive arms must be subject to adequate verification by national technical means." In other words whatever agreements are reached will have to be policed by satellites. If there were a MIRV test ban it could easily be verified by electronic eyes in the sky, but once the Soviet Union has fully tested an operational system, it will be difficult—perhaps impossible—to verify whether or not it is being mass produced. Hence if no agreement limiting MIRVs is concluded, the scaremongers will always be able to hint darkly that the Soviets are secretly producing weapons so as to achieve a first-strike capability. And of course the arms race will continue apace.

Is it too late to control MIRVs? Schlesinger says the Soviet MIRV test "deteriorated sadly" the chances for negotiating controls on these weapons. On the other hand, at the opening of SALT II last fall, the Soviet Union reportedly showed an interest in MIRV controls. Following the Washington summit, the President's national security adviser, Henry Kissinger, said that SALT II will include negotiation of "qualitative restraints" and "that will involve discussion on MIRVs." Because the statement of negotiating principles indicates "both sides are prepared to reach agreements on separate issues to supplement the existing interim agreement" on strategic offensive arms, the United States and Soviet Union could address themselves to the problem of controlling MIRVs, reach an accord and sign it before pursuing other matters. Given the danger posed by these weapons, there can be no higher order of business facing US and Soviet negotiators in Geneva.

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Scapegoating

In the President's view Congress has done things it ought not to have done and left undone what it should have done. On August 15 he said: "We have reached a point at which a continued, backward-looking obsession with Watergate is causing this nation to neglect matters of far greater importance . . . Legislation vital to your health and well-being sits unattended on the congressional calendar." This attack on Congress has been seen as the central thrust of Nixon's latest Watergate speech, an appeal to the voters to flood the mail with letters asking for a quick end to the Ervin committee's hearings. "Either we, your elected representatives here in Washington ought to get on with the jobs that need to be done—for you—or every one of you ought to be demanding to know why." But to anyone who has watched the hearings and seen senators coming and going to answer roll calls, this appeal is baffling. If there has been any lack of initiative, it has been in the Executive.

Without any help from the President Congress has passed two significant federal aid to medicine bills since spring, one which the President signed reluctantly after it had been changed to suit his complaints, and another which he vetoed. The Senate overrode his veto and the House will act on it in the fall. Both houses have approved a bill to increase and extend the minimum wage to nearly seven million new workers. The Senate passed a major campaign reform bill with no presidential encouragement until after the fact; the House will open hearings on it this fall. The Senate and House approved bills to limit the President's power to declare war, and a joint conference has begun work on a compromise. The President is expected to veto whatever comes of this. Both houses are working on anti-impoundment bills which the President has also promised to veto. At the same time Congress has passed a number of bills specifically requested by the President, including one to continue construction of the Alaskan oil pipeline, a new authorization for the Law Enforcement Assistance Administration (though not in the form Nixon wanted) and renewed funds for highway construction with more flexibility to allow local government to apply some of the money to mass transit.

The one case in which the President's criticism may have hit the mark is Congress' lagging effort to control the budget. In the four years following Nixon's inauguration in 1969 Congress saw $40 billion in funds it had appropriated withheld by presidential fiat—"impounded." This April a joint congressional study recommended the creation of two super committees, one in the House and one in the Senate, which would set a budget ceiling and establish spending "priorities" each spring before appropriations are voted. The budget committees would be composed of senior representatives from other committees that control spending—the Senate Finance Committee, House Ways and Means, the appropriations committees—thus collecting in two groups the oldest, most unadventurous men on Capitol Hill. The House Rules Committee has begun hearings on the plan and will resume them this month. The Senate Government Operations Committee hasn't gone this far, one reason being that its chairman, Sen. Sam Ervin, is preoccupied with Watergate.

Talking to reporters last month Melvin Laird, the new White House domestic policy chief, said that among the bills being held up by Watergate were the Nixon foreign trade proposal, education revenue sharing and urban development funds. True, the Ways and Means Committee has not finished work on the President's request for new trade negotiating powers, but this is partly so because committee chairman Rep. Wilbur Mills spent the summer nursing a bad back. Mills' committee expects to report its version of the trade bill in the fall, probably too late for the beginning of international negotiations on September 12. Education and urban spending are part of a much larger dispute over the federal budget. The President seeks to reduce direct expenses on social programs while increasing support to the military, and Congress seems determined to do the opposite. As in the past Congress appears ready to give the President more money than he wants in the Labor and Health, Education, and Welfare bill (the House has raised his request by $1.3 billion). And as he did twice last year Nixon will probably use his veto. Education and urban improvement bills are being held up in committee as members try to work out a compromise between the President's desire for complete local control of programs and their own desire to retain some federal standards.

Some legislation has been delayed but it is not Watergate madness that has clogged the works, Mr. Nixon's oratory notwithstanding.

Housing Vouchers

When the reelected Nixon administration began dismantling the war on poverty apparatus, subsidized housing programs were among the first casualties. With the impoundment of more than $900 million of housing appropriations, applications for the three principal types of subsidies—homeowner assistance ("section 235" housing), rental assistance ("section 236" housing), and public housing—were halted early last January. Although federal complaints about the programs typically stressed the possibilities of municipal corruption, contractor fraud and high rates of default by subsidized homeowners, the political abuses were not widespread and only about five percent of all subsidized units were in financial difficulty. However,

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while the administration may want to scrap the programs for the wrong reasons, the subsidy system does have a number of objectionable features. The bulk of the subsidies (in the form of reimbursement for interest costs and mortgage guarantees) go to builders and developers to encourage them to provide housing for the poor at lower than market rates. Because the payments are tied to specific housing units, poor families are deterred from seeking various sorts of housing better suited to their needs. Further, subsidizing new construction is not usually the most practical way to assure enough low-cost dwellings, and in many places the existing housing supply can be better utilized.

To replace the frozen programs, HUD Secretary James T. Lynn is expected to propose a system of housing vouchers, either in the form of cash payments or certificates. Modeled after the administration's now-defunct Family Assistance Plan, the program would guarantee a basic housing allowance to a family with no resources, reducing the size of the allowance at a fixed rate as income increases. With the allotments based on a small number of readily identifiable criteria such as locality, household income and size, the program would lend itself to relatively impartial administration. (The selection procedures for the current subsidy programs, unfortunately, have been far from equitable. For example though most families in subsidized units earn less than $8000 a year, they represent only one-seventh of all families in this income group.) Moreover by subsidizing the consumer directly, the voucher system would improve the purchasing power of the poor without substantially impairing their freedom of choice.

Because of probable effects on housing consumption, a voucher system would function best in cities with sufficient vacant housing. However in most cities where the vacancy rate is about two percent, suppliers could respond by raising housing prices rather than providing more housing. HUD has prudently begun several experiments to assess the impact of housing allowances on both purchaser and supplier behavior. Experiments in Pittsburgh, Pa. and Phoenix, Ariz. are examining the effects of several different allowance formulas on selected families' demand for housing, to determine, for instance, if the supplements raise spending for housing or alter location preferences. Another set of experiments is considering changes in housing supply and housing costs resulting from the rapid introduction of allowance systems in several metropolitan areas. Although the studies will not be complete for about two years, HUD expects some usable data by December.

Because the concept is not extensively tested, the administration is known to favor a "phased" approach to allowances. The HUD plan is to offer the first vouchers to the elderly, gradually expanding the program "level by level" to include other categories of poor households. For a plan limited to the elderly, Henry Aaron of The Brookings Institution estimates the cost of a liberal allowance ($1650-2100 for a family with no income, reduced by 25 cents for each dollar of earned income) at between $2.8 to $3.6 billion annually, depending on whether housing prices do not change or rise by as much as 10 percent. A low benefit plan (guaranteeing only $850-1050 to an elderly family with no resources) would cost $400 to 600 million, depending on the extent of price changes. Including younger families in the program would raise the annual cost to between $12 and $15 billion for the higher allowance program, and to between $1.9 and $2.5 billion for the cheaper one.

Of course these totals remain well below the level of federal housing subsidy provided by favorable income tax treatment of mortgage interest and real estate tax payments. (These tax advantages, which accrue primarily to middle- and upper-class homeowners, reached $10 billion in 1972.) However in comparison to current federal outlays for low-income housing, a large scale voucher system will undoubtedly be labeled a "budget-buster." In the last fiscal year, government expenditures for all subsidized housing programs ran to approximately $1.6 billion; in fiscal '72 they totaled $1.1 billion.

Last week Sen. William Proxmire (D, Wisc.) sharply criticized the anticipated allowance plan as potentially inflationary and prohibitively expensive. Claiming that the elimination of existing subsidy programs will adversely affect large numbers of low-income families, Proxmire predicted "if housing allowances are provided to any sizeable proportion of the poor, the costs to the US budget will go through the roof." To keep costs down it might be necessary initially to restrict the voucher program, giving priority to those with the most acute housing needs—such as the elderly. But the administration must be willing to make some interim provision for the nonaged poor, for whom low-cost housing will soon be in even shorter supply as a result of the current subsidy freeze.

Taxes Corporations Pay

For the second year in a row, Congressman Charles Vanik (D, Ohio) has written a detailed report on corporate taxation. The most interesting finding is that 11 major corporations that earned substantial income and paid dividends to their shareholders in 1972 paid *no* federal taxes. Six of these firms were awarded tax credits totaling nearly $16 million. Topping the list is McDonnell-Douglas of St. Louis, an aerospace company which earned $111.6 million last year. Two other industrial giants paid no taxes: Republic Steel with $43 million and Occidental Petroleum with $10.4 million in net income before (nonexistent) taxes. Four airlines

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paid no taxes although each earned significant net income: Eastern, $59.1 million, TWA, $43.5 million, United, $32.4 million and Northwest, $17.3 million. American Electric Power earned $168.1 million, Consolidated Edison of New York, $144.8 million and Pennzoil, $62.3 million: none paid federal taxes.

"The statutory tax rate that corporations should theoretically pay is 48 percent," noted Vanik, "yet in addition to the 3 industrials who paid no tax, 14 out of the remaining 58 industrials for which data was available paid only a 1- to 10-percent federal effective tax rate." By contrast in 1971 six out of 45 firms in the survey paid less than 10 percent of their income in taxes. "The average effective federal corporate tax rate was 29.6 percent in 1971 and 29.0 percent in 1972 for the industrials in the sample," said Vanik. So, instead of having their millions taxed at the legally established maximum of 48 percent, large American industrial firms are, on the average, paying the same proportion of their income in federal taxes as an individual whose taxable income is $26,000.

One particularly interesting chapter of the 15 in Vanik's report is provocatively titled: "Has Our Tax Policy Induced the Energy Crisis?" Vanik believes it has: "The tax subsidy system for the oil industry is the most extensive of the entire tax code—causing concentration within the oil industry and higher prices to the consumer." The percentage depletion allowance permits an oil company to deduct from its taxable income 22 percent of the *gross* income earned by its producing wells. Because the major companies control the petroleum from well to refinery to pump, they have a great incentive to overstate the "price" of crude oil. Since the oil comes from company wells, internal book-juggling is all that is required to raise the price. This in turn raises the company's gross income at the wells, 22 percent of which is deducted from the company's consolidated taxable income. The effect of the depletion allowance and other oil industry bonanzas is a gigantic cut in taxes. In 1971 *US Oil Week* reported the large oil companies paid an effective tax rate of 8.7 percent; Vanik reports the rate for 1972 dropped to 8.3 percent.

Another chapter concerns "farmers" who do not farm. The secret to "tax-loss farming" results from using the cash method of accounting. The cost of seed, fertilizer and equipment can be written off in the year of purchase; the sale of crops is reported in the year of harvest. Thus an industrialist who has made greater than usual profits in one year can invest in crops or livestock and record his investment as an exclusion from income. In other words it would appear as a "loss." Whether or not next year's harvest is bountiful is unimportant; by splitting his profits over two years the industrialist pays a smaller percentage of his industrial profits as taxes. How widespread is this practice? The Internal Revenue Service told Vanik's staff "that in 1971 3000 individuals filed schedule F's—the farm section of the tax return—in Manhattan alone." That is not, we presume, Manhattan, Kansas.

A third chapter discusses the investment tax credit that is supposed to induce businesses to invest in new plants and equipment; a result should be new jobs. In practice, Vanik asserts, the credit has only served to encourage further economic concentration and fill corporate coffers. In 1971 when the investment tax credit was reinstituted, there was a considerable amount of productive capacity not being used. (Vanik estimates 30 percent.) At that time the credit was more likely to induce businesses to replace old equipment rather than expand capacity. That they did not expand is evidenced in the employment figures for the industrial firms on the *Fortune* 500. Although annual sales increased $113 billion between 1969 and 1972, the 500 corporations were employing 136,960 fewer persons at the end of that three-year period. (Employment is now on an upswing.)

The *Fortune* 500 registered a phenomenal 19 percent gain in profits for 1972. Yet the Treasury Department reports corporate tax receipts were up only 7.7 percent over earlier estimates. If ours were a truly progressive system of taxation, greater profits would mean proportionately greater taxes. The tax code, however, favors large corporations by allowing them deductions, exclusions, allowances and exemptions smaller entrepreneurs and individuals cannot possibly take advantage of. Big business uses these "loopholes" to escape paying its "fair" share of the costs of big government. With the costs of government continuing to rise, someone has to take a greater share of the tax burden. "That someone," suggests Vanik, "is the ordinary taxpayer and the small businessman."

Pentagon PR

The Office of Management and Budget defines "public relations activities" as "those which serve to publicize or promote the objectives, operations, facilities, or programs for which the agency has a responsibility or in which it has an interest. . . . These include, but are not limited to, activities concerned with press contacts, broadcasting, advertising, exhibits, films, publications and speeches." This broad definition of PR applies to all executive departments.

Three years ago Congress limited the Department of Defense to a $28 million a year public relations budget. The Pentagon has since reported PR expenditures of $22.4 million and $24.8 million for fiscal years 1972 and 1973 respectively. But the appearance of compliance is deceiving. These figures are the immediate costs of 1900 employees who spend more than 50 percent of their time doing Pentagon PR. A recent report of the General Accounting Office, undertaken at the request of Senator Fulbright, indicates the

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Pentagon has been spending at least twice as much on image-building as Congress authorized.

The Pentagon has carried out this deception by not reporting all its PR activities as such. Military museums, which are clearly "exhibits" by OMB's definition, are not included as PR. The costs of the training programs at the Defense Information School that "prepare graduates for positions in information assignments" are buried in a different budget category. Even the civilian tours of military bases are not considered public relations expenses.

The brass are apparently fond of brass bands. In Washington for instance GAO notes there are "five major military ceremonial bands." They perform more than 5000 times a year and are seen by 8 million spectators, but the military does not attribute their $11 million yearly cost to PR.

The biggest crowd-pleasers are the military's precision aerial demonstration teams. The army has helicopter and sky-diving teams. The navy "Blue Angels" and air force "Thunderbirds" fly supersonic F-4 Phantoms, each of which costs $4 million. The services claim these groups "reinforce public confidence" in the military and "support . . . recruiting and retention programs." Yet GAO points out: "DOD does not include the costs for these teams in the public affairs budget. . . ."

Two and a half years ago CBS News produced "The Selling of the Pentagon," an award-winning documentary that described in detail the military's costly PR activities. CBS showed the congressionally imposed ceiling was being broken then, and it is being broken now. In spite of the limit on what the Pentagon can spend to burnish its image, once again we find it has flouted the will of Congress and dissembled.

An Eye on the FBI

The creation by the Senate Judiciary Committee of an ad hoc group to perform oversight of the Federal Bureau of Investigation is an event that should not be overlooked. J. Edgar Hoover operated for 48 years as FBI director with no congressional scrutiny. He needed it. L. Patrick Gray III served as acting director for one week short of a year and—as his ill-fated appearances at his own confirmation hearings and before the Ervin Select Senate Committee showed—he, too, needed watching.

The new FBI director, former Kansas City police chief Clarence Kelley, said at his confirmation hearing last June that he thought congressional oversight could strike a balance between a director essentially independent of other government agencies such as Hoover was, and a director totally subservient to the White House, such as Gray turned out to be. But Kelley tempered his recommendation: The oversight group, he said, should be "restricted, controlled, responsible and thoroughly cognizant of the need of the confidential nature of the FBI's work." Judiciary Committee chairman James Eastland has put together an essentially conservative subcommittee. From the Democratic side come Eastland himself, John McClellan, Sam Ervin, Robert Byrd and Phil Hart. The Republicans are Roman Hruska, Hugh Scott, Strom Thurmond and Edward Gurney. Will they be too restricted, too controlled?

In mid-September the subcommittee will hold its first hearing on a bill by Byrd and others to limit the FBI director to one 10-year term. Attorney General Elliot Richardson and Kelley will be asked to testify. What the subcommittee will do thereafter is still to be decided. It's not that there's no work to be done. The subcommittee should investigate the recent disclosures of FBI burglaries, wiretapping practices, use of informants and the use and contents of FBI files. And it needs to ask some basic questions: should the bureau be an independent agency? Should it investigate crime and, at the same time, serve as a domestic intelligence gathering agency? Should the $360 million budget of the bureau be appropriated in a lump sum to be used entirely at the director's discretion? Or should the FBI get its money as most other agencies do according to categories and for purposes specifically approved by Congress?

After 48 years of free reign and after the Watergate scandal, the FBI is due for some changes.

The Nixon Watch

Out in the Open

San Clemente

Since the President was last reported upon in this space, he has made a televised spectacle of himself in New Orleans. He has confounded and defeated his media adversaries at a news conference in San Clemente. He has asked the Senate to let him replace Secretary of State William Rogers with Henry Kissinger. He has submitted to the humiliating necessity of presenting evidence, in the form of an auditing firm's report, that there was nothing crooked in the purchase of his San Clemente estate. And, in a way so petty that the merest mention of it is embarrassing, he has let his hatred of the press take him beyond the bounds of rationality. In this report I deal as best I can with each of these items and offer some hesitant judgments of what they portend for the future of the Nixon presidency.

My folly in choosing to fly directly from Washington to California instead of accompanying the President's

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press party to New Orleans debars any pretense at first-hand appraisal of his performance there. I must rely upon the accounts of other reporters, television film, and an excellent recording of Mr. Nixon's speech to the Veterans of Foreign Wars. There was every reason for the President to be at his best in New Orleans. He had just had two presumably restful days at his Florida home. His principal subject was to be his Indochina policy and his VFW audience was sure to be receptive to anything he had to say about that. Local police and Secret Service reports of a conspiracy to kill the President—a plot that faded into the mist of rumor once he had come and gone—caused a change in his motorcade route that was said to disappoint and annoy him. But his spokesmen hardly mentioned this when they were later asked to explain his heard and witnessed behavior. When he saw reporters and cameramen closer to him than he wanted or had expected them to be, he lunged at Press Secretary Ronald Ziegler and snarled at him and shoved him. During his VFW speech, the President slurred a distressing number of his words. Reporters who have been observing him for years thought they saw something indefinably but unmistakably odd in his gait and his gestures. Some of them thought that he was drunk. None of them, so far as I know, was sure enough of that impression to report or even suggest it in published and broadcast accounts. Because the impression was so much a feature in the remembered scene, I report it without apology. I also accept the assertions of Nixon assistants that the President does not drink at midday, certainly not before he is to make a public address, and drinks very little at any time. The official explanation, in part implied and in part explicit, that Mr. Nixon in New Orleans showed and succumbed to the strain that he's been under for many months, what with the Watergate scandals and other troubles and pressures, seems sufficient and believable to me. It should be added that a senior Nixon assistant who was with the President in New Orleans and who later saw a televised replay of the VFW appearance and speech was shocked and disbelieving when he was told of the impression reported here. This assistant thought and told Mr. Nixon that he'd done extremely well in New Orleans. I gather that the President didn't quarrel with this estimate of the performance, though some of his other assistants did. They encouraged a later report that the President held a promised press conference in California sooner than he'd first intended because he agreed with advisers who felt that the impact of the New Orleans spectacle could be disastrous and had to be quickly offset.

There was no corresponding dispute at the western White House about the impact of Mr. Nixon's San Clemente press conference. His people judged it to be an unqualified triumph. I suspect that their judgment of it was better than that of the reporters, myself among them, who tended to mull over the many evasions and equivocations in the President's answers to the Watergate questions that were put to him and to minimize the effect that his readiness to respond to the questions appears to have had. There's a certain euphoria, and no doubt a good deal of wishful self-deception, in the expressed conviction that the Presi-

The New Admiral

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dent has put the worst of his Watergate travail behind him. How he and trusted White House assistants can really believe this, given the prospect of Watergate indictments and looming confrontations with the courts and Congress over his power to withhold evidence, baffles me. But the attested and reportable fact is that the President and his assistants do believe it.

In due course, no doubt, I shall work up the proper reverence for Henry Kissinger's imminent duality as secretary of State and assistant to the President for national security affairs. It is a development of considerable importance; it probably bodes well for the conduct of foreign policy in the remaining Nixon years; and it is quite possible that Kissinger will prove to be a splendid secretary of State. Right now, however, I can only marvel at the sequence of events that preceded the President's announcement at the San Clemente press conference that Secretary Rogers' resignation had been accepted and that Kissinger would be nominated to succeed him. The possibility that he might become secretary of State and retain his White House job dawned upon Kissinger last May or thereabouts. Very soon thereafter it became apparent to his assistants on the National Security Council staff that he wanted and expected this to happen and that his frequent protestations to the contrary were so much balderdash. In mid-July Kissinger began discussing with some of his assistants the prospect that they might be transferred from the NSC staff to the State Department in order to help him master its massive and formidable bureaucracy. Rogers, a friend of the President's since the 1940s and the last of Mr. Nixon's original Cabinet appointees, evinced a rather puzzling reluctance to resign from a position that he'd been saying since 1969 he wanted to hold only through the first Nixon term. The secretary's reluctance to leave it in 1973 was puzzling because he had been in Kissinger's shadow from the start of their respective tenures and had garnered far more humiliation than honor. On August 16 Rogers spent some 90 minutes with the President at the White House. Kissinger's NSC associates noticed after the meeting that he perked up and appeared to be more assured than he'd lately been. Rogers dated his letter of resignation the 16th. At a press conference on the 20th, the date of the President's letter of acceptance and professed regret, Rogers spoke of coming foreign affairs developments as if he expected to be at the department indefinitely. Departing Cabinet officers usually make their resignations effective when their successors are confirmed by the Senate. In the tart and cryptic first sentence of an otherwise warm and friendly letter to the President, Rogers made his resignation effective September 3.

Since the National Security Council and the post of assistant for national security affairs were created by law in 1947, nobody has simultaneously been secretary of State and the President's chief staff adviser on foreign policy. Some of Kissinger's subordinates on the NSC staff are saying that he can't spend the time at the Department of State that the secretaryship normally requires and be the President's man in the sense and to the extent that the assistant for national security affairs is expected to be. It's being said at the State Department that he can't spend the time at the White House and accord his role there the priority that it normally requires and be an effective secretary of State. Although other and perhaps more serious conflicts of duty and interest are built into the complex system of interdepartmental groups and committees that Kissinger has dominated from the White House, my guess is that he will surmount the difficulties and anomalies and surprise a lot of people, possibly including himself, by making the dual role workable and effective. It's clear that he, a Jew born in Germany and the first secretary of State with that background, profoundly wants and hopes to be applauded and remembered as a great and creative secretary. Here's wishing him well.

The President's property audit climaxed a prolonged study in the penalties of avoidable deceit. From July of 1969 to May 25, 1973 he concealed the essentially innocent though rather embarrassing fact that his multimillionaire friend, Robert Abplanalp, had made the purchase of the Nixon estate in San Clemente possible with a series of loans and land acquisitions under cover of a blind trust. From last May 25, when the Abplanalp assistance was incompletely revealed, until August 27, Mr. Nixon brought further suspicion and recrimination upon himself by hiding the fact that another rich friend and frequent benefactor, Charles G. (Bebe) Rebozo, was a partner in the San Clemente land deal until Abplanalp bought out his interest shortly before the audit was published. The main purpose of the audit was to demonstrate that 1968 Republican campaign funds in the custody of the President's sometime attorney, Herbert Kalmbach, didn't have to be used and were not used to finance the original San Clemente purchase. Kalmbach, who is deeply involved in Watergate doings, swore in a civil deposition in July that campaign money wasn't used for the purchase. A sufficient commentary upon the sorry business is that the President still felt it necessary to prove that he hadn't lied when he said through a White House spokesman that he had not used party funds to buy his California home.

Mr. Nixon's latest display of contempt and dislike for the press wouldn't be worth mentioning if it didn't also entail a characteristic exercise in White House stupidity. On its face it was a matter of refusing to let the traveling press, principally the AP and UPI correspondents, know when the President sallies forth from his residence and office compound at the western White House for motor rides and visits to nearby beaches or restaurants. Even Presidents are entitled to some privacy now and then, and the whole thing

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would not matter if it had not required Deputy Press Secretary Gerald Warren, who has been trying for months at the President's instruction to establish his credibility as the functioning White House spokesman, to confess that even he was denied prompt and accurate information about the President's movements. It struck Warren's audience in the California press room as a needless and futile exercise in concealment.

Note: A statement in my last report, indirectly attributed to General Alexander Haig, that the Nixon-Agnew meeting at the White House on August 7 was "a serious angry discussion of a serious matter" should have read "a serious but not angry discussion."

John Osborne

Civil War in Cambodia

Who's the Enemy?

by Stanley Karnow

For years President Nixon has been portraying his commitment to Cambodia in apocalyptic terms. He sought to rationalize his invasion of that country in the spring of 1970 with the contention that it would prevent the spread of communism throughout Asia, Africa and Latin America, and thereby spare the United States from being reduced to a "pitiful, helpless giant." Similarly he asserted last month that the Cambodian bombing halt forced upon him by the Congress has not only "weakened the security" of Southeast Asia but "undermines the prospects for world peace." But now it is becoming clear that the President has long been aware that the struggle for Cambodia is essentially a civil war, and, as such, has warranted neither his brand of involvement nor the grandiose rhetoric he has repeatedly used to justify that involvement. Once again, in short, his policy has been characterized by a familiar mixture of deception and distortion.

This fresh indication of deliberate dissimulation surfaced in a curious sequence of disclosures last week. Responding to questions from a television panel of newsmen, Defense Secretary James Schlesinger revealed that he has been receiving "periodic reports" of clashes between Cambodian insurgents and North Vietnamese troops in areas of Cambodia close to the South Vietnam border. He did not divulge the scale or frequency of the clashes, but an aide later said that accounts of such incidents have been reaching the Pentagon "from time to time" during the past year. Normally the administration would have publicized and even magnified hints of splits within the ranks of a Communist adversary. In this case, however, Schlesinger only confirmed the reports after a dispatch on the subject appeared in *The New York Times*. The obvious conclusion to be drawn from the delay in releasing the information is that evidence of dissention between the Cambodian rebels and their North Vietnamese allies underlies the nationalism of the insurgents, points up the basically domestic quality of their fight, and, as a consequence, deprives Mr. Nixon of the argument that he has been locked in mortal combat against aggressive forces seeking to dominate the globe.

The administration's recurrent tendency to disguise the real nature of the Cambodian situation is another bit of fraud. For the White House has been supplied with a good deal of detail on the insurgents by the Central Intelligence Agency, most of it suggesting that they have been operating independently of the North Vietnamese for nearly two years. According to Samuel A. Adams, who specialized in analyzing Cambodian developments until his recent resignation from the CIA, the insurgent movement is headed by Cambodian Communists originally trained in North Vietnam following the end of the French war in Indochina. Back in the mid-1960s the insurgents were working to topple Prince Norodom Sihanouk, then chief of state in Phnompenh. But Sihanouk's ouster in March 1970 compelled him to throw in his lot with

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STANLEY KARNOW *this week joins the Washington staff of* The New Republic *as an associate editor. Before becoming a contributing editor of this journal last April, Mr. Karnow was diplomatic correspondent for* The Washington Post *and wrote from Asia for the London* Observer, *the* Saturday Evening Post *and* Time. *He is the author of* Mao and China: From Revolution to Revolution.

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the rebels he had formerly tried to liquidate, and they accepted him as their nominal leader. At the same time the US invasion prompted Hanoi to pour thousands of soldiers and political cadres into Cambodia. They helped the insurgents to set up local units in each province, district, village and hamlet, supplied them with weapons and ammunition, and organized them into about a dozen mixed regiments comprising both Vietnamese and Cambodians. Although successful against Lon Nol's inept regime, the joint effort ran into trouble as a result of traditional differences between Cambodians and Vietnamese that date back to the days of Angkor. Partly because of these difficulties and partly because they were then preparing for an offensive in Vietnam, the North Vietnamese began to dismantle their Cambodian advisory apparatus and disband the mixed regiments in late 1971. By the summer of 1972, Adams says, the deployment of Communist forces in Cambodia had assumed its present shape.

Except for service troops along the Ho Chi Minh Trail, a few combat elements stationed near the South Vietnam frontier and a handful of specialists aiding the insurgents, the North Vietnamese and Vietcong are out of Cambodia. The rebellion is managed by Cambodians. Functioning through six regional commands, they direct day-to-day military operations. Their contacts with the Vietnamese Communists are carried on through liaison committees concerned with such matters as supply and intelligence. Significantly Vietnamese Communist officials who travel through insurgent territory must carry passes issued by local Cambodian rebel authorities.

The insurgents certainly consult with Hanoi, but it has been plain that they make their own decisions based upon what they consider to be Cambodia's national interests. Their autonomy is reflected in the fact that they chose to continue fighting this year rather than go along with the Vietnamese cease-fire agreement signed in Paris in January. It is also mirrored in the fact that Sihanouk, who only plays the role of spokesman for the rebel commanders on the ground inside Cambodia, has been rejecting Henry Kissinger's overtures to talk despite his own inclination to negotiate a settlement. The insurgents' apparent resistance to pressures by the Chinese to compromise further dramatizes their independence as a force motivated by mainly nationalistic imperatives.

One of the tragedies of American foreign policy since World War II has been its consistent failure to adapt to new realities. Eisenhower and Kennedy were battling against monolithic communism long after the Sino-Soviet dispute proved that the international Red menace was a myth. Lyndon Johnson escalated in Vietnam on the grounds that he was defending Southeast Asia against a Chinese threat that he knew to be empty. President Nixon went into Cambodia to make the world safe for democracy, and even though he is engaged in a parochial conflict that is none of America's business, he is determined as he said last month to continue providing Lon Nol with "the maximum amount of economic and military assistance." Nobody perceives the anomaly of this policy more acutely than Sihanouk, as I discovered in a conversation with him in Peking a few months ago. How can Mr. Nixon establish close ties with Moscow and Peking and yet fear Cambodian communism? he asked. "Really," Sihanouk added almost proudly, "he does us too much honor."

Conversations in the Court

Reorganization of Intelligence

"C.I.A. to Undergo Major Overhaul"
The New York Times, *August 21, 1973*

Lord Kissinger:
I've brought Sir William Colby by,
To tell us how our spies deploy, what word
They send by secret ways, and finally how
To use the stuff.

King Richard:
The latter, yes, my Lords,
For in my need to know what's happening
Beyond the realm each day,
I cannot spend forever browsing through
The stacks of yellow foolscap just to find
That wine from France is up in price,
That peasants wear no shoes in Greece,
That Chinese chopsticks take some time
To master.

Sir William Colby:
The very thing you've set your heart
Is my heart's chosen course. We winnow
Day and night by river bank to blow the chaff
From royal view, deliver whole the kernel of
The honest truth.

Lord Kissinger:
Well spoke, brave Will, we've had enough
Of those surveys which place six warts
On the left hand, and half a dozen on the right.
Cleave to the center true!

Sir William Colby:
As all work of mortal toil,
One imperfection's raised its head.

King Richard:
And what, pray tell, is that?

Sir William Colby:
No news today.

Robert J. Myers

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Questions the Ervin Committee Should Ask

Loose Ends

by Walter Pincus

In any congressional investigation, particularly one ranging as broadly as the Ervin Select Senate Committee to Investigate the 1972 Presidential Election, there are bound to be loose ends—conflicts in testimony that never get resolved, leads to other witnesses who never are called to testify, and facts relating to events or activities that are important but not directly related to the main substance of the inquiry and thus never fully developed. With the Ervin committee beginning to gear up for its final series of public hearings, it is worth reviewing a few of these loose ends.

Who is going to investigate the Nixon White House fund? Sometime during 1969 a lawyer representing an association of individuals gave $100,000 in cash to the Nixon White House. Who it was in the Nixon hierarchy that received the money is still not publicly known, nor is the identity of the group that made the contribution. What is known, however, is that the money did not go to the Republican National Committee or some other regular political organization. Rather it was added to some $1.1 million in cash which, under orders from White House chief of staff H. R. Haldeman, had been stashed in safe deposit boxes in New York, Washington, Los Angeles and Newport Beach, California. That cash fund (plus another $570,000 in checking accounts in New York) was held as a giant Nixon fund, available for special use by the White House—as distinguished from the Republican Party—on the argument that the money originally had been given for the nomination of Richard Nixon and not his ultimate election in 1968.

Information about the fund has come out in a piecemeal way. During a recent deposition hearing Herbert Kalmbach, formerly the President's personal lawyer and the man who acted as trustee and disbursing officer for the White House fund, disclosed for the first time that between 1969 and 1971, a total of $300,000 in cash was added to the fund. Along with the one $100,000 donation in 1969, Kalmbach said four separate cash contributions totaling $153,000 were added in 1970 and two more totaling $47,000 came in 1971. Under questioning from the lawyers representing the Democratic National Committee, Kalmbach refused to identify any of the donors except to maintain that they were not corporations. Kalmbach was not asked if donations other than cash were also added to the fund, but some may have been. When, in February 1972, the residual $915,000 in the fund was turned over to the Nixon reelection committee, the checking account portion had grown by $110,000 to $680,000.

In the coming months either the Ervin committee or some other congressional body should inquire as to the source of these funds. The White House heretofore has not been thought of as a political committee—at least not under current legal definitions. And the President is not required by any law now on the books to make a separate filing with the General Accounting Office under the campaign fund reporting provisions of the election laws. Yet a good portion of the money disbursed from this Nixon fund went for political purposes. In 1969, $20,000 went into the New Jersey gubernatorial campaign of Republican William Cahill; in 1970 $400,000 went to support Albert Brewer, George Wallace's primary opponent in the Alabama governor's race; and in 1971 $100,000 went to the Kentucky gubernatorial race of Louie Nunn. Another $100,000, according to Kalmbach, went to former New York policeman Tony Ulasewicz who was performing private investigations of political figures at the direction of the White House; $35,000 to $40,000 went to Donald Segretti for activities he undertook at the direction of White House aides during the Democratic presidential primaries; and another $36,000 in cash went to Murray Chotiner in 1971 for what Kalmbach described as "political campaign work." Finally some $350,000, Kalmbach said, went for polling expenses.

Thus what this was was a giant personal political fund run out of the White House with apparently no legal requirement for public reporting because no one ever conceived of a President or his staff engaging in such an activity. There is good reason to believe that Haldeman expected to resurrect the fund after the 1972 election. In April 1972 he had $350,000 in cash sent to the White House—and eventually put in an Alexandria, Va. safe deposit box. That fund at various times has been described as 1968 surplus or polling money, both euphemisms for a discretionary pile of money to be drawn upon for whatever projects the President or his top staff wanted undertaken.

On June 17, 1972, who called G. Gordon Liddy and told him to talk to Attorney General Richard Kleindienst? The activities of June 17, the Saturday that the Nixon campaign organization and the White House first learned of the break-in and arrests at the Watergate, set the pattern for the cover-up. How and when the key figures first heard of Watergate—and what they learned—

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should have been a main focus of the Ervin committee's questioning. It wasn't. Some witnesses were asked in detail, others were not. One, Haldeman, was let off with giving the most unbelievable of answers—he could not remember how or when he first heard of Watergate. Assistant Attorney General Henry Petersen and his boss, Attorney General Kleindienst, knew by 8 am on June 17, and both realized it represented a tough political as well as legal problem. Ironically the Ervin committee questioners who drew out that information failed to ask who, if anyone, those two gentlemen called that morning—particularly White House or Nixon committee officials.

One major unexplored event stands out on that day. Campaign manager John Mitchell, his deputy Jeb Stuart Magruder and Mitchell's two chief assistants, Fred LaRue and Robert Mardian, all were in Los Angeles. Magruder was called away from breakfast to take a call from Liddy who, he testified, told him of the arrest of the Nixon committee security chief, James W. McCord and others. During that hectic morning in California it was decided a call should be placed to Liddy to have him call Kleindienst. There is disagreement over two main points however. Magruder testified Mardian was to call to have Liddy see if McCord could be released from jail. Mardian testified Magruder reported that Liddy said those arrested "all had fake ID cards . . . and that although they were incarcerated, the identities of the accused were not known." Mardian denied, however, that he made the call that Magruder alluded to or that a call was made.

LaRue testified the decision was made that someone should phone Kleindienst and ask him to call Washington police chief Jerry Wilson "to see what details we could find out about the situation." LaRue did not know for sure who made the call, but he thought it might have been Mardian. Mitchell during his testimony ridiculed the idea that he would have Liddy used as a go-between for himself or Mardian when the man they wanted to reach was Kleindienst—a close personal friend of both of them. Mitchell, however, had no memory of any such call being made.

A key participant in the incident, a man who was with Liddy in Washington, was Powell Moore. A member of the Nixon committee's public relations staff and former PR man with the Justice Department, Moore knew Mardian, Kleindienst and Mitchell from his days at Justice. Moore called Mardian on Sunday June 18 to tell him that he and Liddy went to Burning Tree Country Club outside Washington on June 17 to speak to Kleindienst. Liddy had told Moore, according to Moore's account, that he had been called by Mitchell and told to have Kleindienst get the Watergate burglars released from jail. Moore said Kleindienst waved Liddy away, said he didn't want to hear of the incident, and continued playing golf.

When Kleindienst testified, he recalled that Liddy showed up at Burning Tree with Moore and asked to speak to him privately. They went to a corner of the men's locker room. When Liddy said he had a message from Mitchell on the Watergate affair, he, Kleindienst, stopped him from talking and sent him away. Kleindienst then put in a call to Mitchell in California and, reaching Mardian, told him to keep Liddy away from him; Kleindienst added that the men arrested in the Watergate would be treated like all other prisoners.

Why all the interest in this event? It may have been the first—and most desperate—attempt at a cover-up an obstruction of justice. If McCord could have been gotten out of jail before he was identified as a Nixon committee employee, there would have been no *direct* link to the Nixon organization—and remember Liddy had told Magruder of the false IDs. Kleindienst never told anyone at the time of the approach by Liddy and Moore. If he had, FBI agents would have immediately questioned both Moore and Liddy. Moore, who had observed Liddy shredding documents that June 17 morning, might have come forth with that information. As it was Moore was not interviewed by the bureau until July 24, well after Liddy's role had been discovered by the investigators.

Finally there is the question of why none of those who say the call was legitimate will step forward to say he made it. Certainly a call was made. It's just one of the unresolved pieces of conflicting testimony, but an important one for it could have been the first and most blatant cover-up attempt.

What was discussed about Watergate on June 20, 1972 in the 2-hour-and-15-minute morning meeting President Nixon had with his two chief aides, H. R. Haldeman and John Ehrlichman, just three days after the arrests at the Democratic national headquarters? Ehrlichman and Haldeman had just come from a 90-minute meeting with campaign manager Mitchell, then-Attorney General Kleindienst and White House Counsel John Wesley Dean III. The topic at that meeting had been Watergate. In fact it was the first face-to-face discussion these major figures in the affair had after the arrests. Mitchell already knew of the participation of two former White House aides, Liddy and E. Howard Hunt, as well as his own campaign deputy, Jeb Magruder. By then he also had been told that there had been a prior break-in and that a bug had been in operation on at least one telephone. Dean, who had questioned both Liddy and Magruder by this time, had supposedly briefed Ehrlichman. Haldeman had talked to his political aide, Gordon Strachan and according to the latter had asked that Strachan's files be cleaned. Kleindienst had been approached on June 17 by Liddy, who allegedly said Mitchell had sent him to get McCord out of jail.

Thus the participants at the early morning, June 20 meeting knew quite a bit—more than the President has ever acknowledged knowing prior to April 17, 1973. How much did Haldeman and Ehrlichman tell

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the President that day? Special prosecutor Archibald Cox is seeking the tape of that Oval Office meeting on June 20 saying, "it should show the extent of the knowledge of any illegal activity by the participants [in the meetings] or any effort to conceal the truth from the [President]."

Later on June 20th, according to LaRue, he and Mardian briefed Mitchell about a long interview they had had that afternoon with Liddy. During that session Liddy told them of some activities of the White House plumbers, including the burglary of Daniel Ellsberg's psychiatrist. At 6:08 pm that evening Mitchell talked to the President for four minutes. Cox is also seeking this taped conversation. The special prosecutor says "this apparently was the first direct contact after the break-in between [the President] and Mitchell, so what Mitchell reported may be highly material." Mitchell testified that during this conversation he apologized to the President for what had happened, but knew nothing more than that five men had been arrested. That was not true as to his own knowledge. As subsequent testimony proved, he knew much more. Why did he mislead the committee? And *did* he mislead the President?

Disclosure of the substance of those two June 20 events, the presidential morning meeting and the late afternoon phone call, could go a long way toward establishing what the President knew and what he wanted to know. For by the next day, June 21, plans for the cover-up began to be put together.

Leaks in the Agnew Investigation

Plumbers at Justice

by Nathan Lewin

Vice President Agnew has moved in his own defense with a crispness that is in sharp contrast to the hesitancy of the President's style in Watergate and with an unexpected sureness that has thrown his pursuers off stride. First came the almost immediate meeting with the press when Mr. Agnew was able to make categorical denials of guilt on national television at a time when his interrogators had no details on which to base any hard questions. Next—once some clearer picture of the nature of the charges and the identity of the accusers began to emerge—came a very pointed and effective counteroffensive aimed at proving that there is something other than disinterested justice at work in the investigation. Any respectable criminal defense lawyer knows that a solid case of police brutality or prosecutorial misconduct that deflects the attention of the jury from the guilt of the accused to the sins of those who are trying to get him is worth a dozen alibi witnesses. And so Mr. Agnew has adroitly shifted public attention from his own conduct as county executive, governor and then Vice President to the search for the unfortunate wretch—described as a "Justice official in Washington"—who talked to a *Time* magazine reporter and told him that "at least three witnesses have told of delivering cash payoffs to Agnew" and that "the evidence is so strong that the case must be taken to trial."

The story in *Time* was not really much more revealing than the bits and pieces of news that had been ferreted out by reporters for daily papers over the preceding week. Since Mr. Agnew first heard of the investigation's interest in him in April on "the cocktail circuit," it should hardly have surprised him that there were many sources of information available to the press. Yet the *Time* story precipitated another TV appearance before reporters (this time with no questions answered), a charge that the disclosure was "a clear and outrageous effort to influence the outcome of possible grand jury deliberations," and a harsh letter to Attorney General Richardson demanding "drastic and immediate action [to] curb this vicious and illegal practice."

Mr. Agnew's charge is thin in substance, but it is a stroke of a master tactician. Possibly its most remarkable by-product is the temporary alliance, on the Agnew side, of the ACLU and President Nixon—the former zealously protective of criminal trials and the latter intent on plugging government leaks. No matter

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how reluctant the President may be to align himself at this time with any government official who may have used public office for, in his words, "personal gain," he could not resist a blast during his press conference at "the outrageous leak of information from either the grand jury or the prosecutors or the Department of Justice or all three." He announced that he had demanded that the attorney general conduct "a full investigation" and directed that any individual who had "leaked information in this case to the press or to anybody else will be summarily dismissed from government service." The attorney general, duly chastened by the presidential directive and the vice-presidential challenge, promptly announced that he was setting up a special leak-investigating squad of lawyers and FBI men. (The urge to call them "plumbers" is irresistible, though one prays that their performance will be more sober than the escapades of the White House troop.)

In addition to civil liberties groups and the President, the Agnew claim that his criminal case is being prejudiced by the leaks has gained the support of many serious columnists and editorial writers who regularly struggle with their consciences in print over how to reconcile the country's occasionally conflicting traditions of fair trial and free press. Apparently having forgotten quickly the lessons of Watergate, during which the Bernstein and Woodward team persevered with a journalistic investigation based substantially on leads from FBI and prosecution sources even while a grand jury proceeding was under way, the columnists have beaten their own breasts and berated each other for treating Mr. Agnew so shabbily.

The truth is that the Vice President has spun much gold from very little straw. Both he and the President have woven together two established legal propositions, neither of which strictly applies to Agnew's case. First, they maintain that the leaks are designed to convict the Vice President "in the headlines and on television, before he's had a chance to present his case in court" and "to influence the outcome of possible grand jury deliberations." Then they throw in the legal rule that a grand jury proceeding is "supposed to be in secret," with Mr. Agnew stating his expectation that the investigation "would be conducted not only thoroughly, but secretly, with the usual safeguards of possible grand jury proceedings." So, it is asserted, disclosure of any information at this stage is "outrageous" and "illegal."

The claim that the Vice President is being unfairly convicted in the press because some details of the investigation have been disclosed before the grand jury hears them is not the usual prejudicial publicity claim. What the Constitution guarantees is a fair and impartial *trial*. So safeguards have been established to keep newspaper reports from trial jurors who are expected to judge a case solely on the evidence they hear in court, and to keep from the jury box anyone who has formed an opinion about a case from what he has read in the newspapers.

A grand jury plays a different role. Its job is to investigate and accuse, and courts have recognized that this broader function entitles the grand jurors to consider hearsay evidence or other leads that might not be admissible proof in legal proceedings. Judge Learned Hand said of grand juries that they "are the voice of the community accusing its members, and the only protection from such accusation is in the conscience of that tribunal." State and federal grand juries indicted Teamsters Union President Dave Beck in 1957, at a time when Senator McClellan was announcing, with coverage on the front pages of the local newspapers, that he believed Beck had "committed many criminal offenses" and when headlines were screaming the number of times Beck had invoked the Fifth Amendment before McClellan's Senate committee. Yet the Supreme Court sustained convictions that followed both indictments. Billie Sol Estes also made the claim that the grand jury that charged him with a federal crime had been biased because of the unfavorable newspaper publicity, and the Court of Appeals rejected his argument on the ground that there was no constitutional requirement that grand jurors be impartial and unbiased. The Supreme Court allowed that conviction to stand. The same result was reached in the prosecution of Johnny Dio for the blinding of labor columnist Victor Riesel, even though the harmful publicity had emanated from periodic formal public statements made by prosecuting officials to the press while the investigation was going on.

The prosecution's handling of the Dio case was, to be sure, criticized by the district judge and has been cited by the American Bar Association's report on "Fair Trial and Free Press" as prosecutorial conduct that went "considerably beyond legitimate bounds." But the ABA's own recommended standards on proper conduct by a prosecutor during the period that a crime is under investigation recognize that public disclosures may be necessary then "to warn the public of any dangers, or otherwise to aid in the investigation" —loopholes that are not provided at a stage closer to trial.

What may "aid an investigation" is, of course, a matter of judgment. Ordinarily disclosure of the names of witnesses does not have that effect, although when a well known public figure is the target of the investigation, it may encourage others to come forward if they know that certain named witnesses are prepared to testify. And in an administration that has had at least one cover-up too many, a conscientious prosecutor may think it useful to make public in a nonsensational way the nature of the evidence he has. What course might the Watergate grand jury have taken, for example, if there had been newspaper stories of Hugh Sloan's report of attempts to have him commit perjury?

The short of the matter is that in the free press-fair

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trial context, the Agnew leak *appears* to have been an impropriety, though not nearly of the dimension that the Vice President and the President have made it seem. The likelihood that disclosures will affect any trial jury is remote and, in the language used by the Supreme Court in the *Beck* case, the press accounts have been "straight news stories rather than invidious articles which would tend to arouse ill will and vindictiveness." The notion that the disclosures were deliberate efforts to "influence" the grand jury cannot be taken seriously since Mr. Agnew knows as well as any lawyer that the informality of grand jury sessions provides the prosecutor with far more effective ways of bending the grand jury to his will. Indeed the news stories are more likely to harm the prosecutor's case against the Vice President than help it since they arouse great expectations. If there is now less than the testimony of three eyewitnesses to Mr. Agnew's receipt of "cash payoffs," the grand jurors will wonder whether the proof is as strong as it should be, and may be reluctant to indict. And finally if the effect on the grand jury's evaluation of the proof is the issue, the nationally televised Agnew press conferences—with their unequivocal denials of guilt—are likely to influence the grand jury far more than the news accounts of the testimony they will hear. Although the Vice President has insisted that he be given the opportunity to confer with United States Attorney George Beall, he has made no request to appear and give his testimony under oath to the grand jury. By going on television to state his innocence he conveys to the grand jury a personal message that he appears not to be ready to deliver in person.

The allusion to grand jury secrecy is also attenuated. No testimony has yet been given to the grand jury and no documents have been obtained under subpoena. (The Vice President's own papers were produced "voluntarily" in answer to the United States attorney's letter.) So the letter of no rule of grand jury secrecy applies.

More importantly, however, the reason for secrecy of grand jury proceedings has only limited application to the Agnew case. In several decisions the Supreme Court has explained that grand jury proceedings are confidential to prevent escape by an accused or efforts by him to tamper with witnesses, to encourage witnesses to come forward without fear of retaliation, to permit grand jurors to engage in uninhibited investigation and deliberation and—the only basis for grand jury secrecy that gives any right to a prospective accused—to prevent unwarranted public disclosure of the fact that an accused has been under investigation and derogatory information if he is not indicted. The meeting the Vice President had on August 6 with Attorney General Richardson, in which the case against him was detailed, violated at least two of the four listed reasons for grand jury secrecy. No matter what Mr. Agnew may say about seeking no special privileges not available to any other individual under investigation, very few subjects of grand jury inquiry are ever told before formal charges are filed what evidence the prosecution has against them. Many do not learn details until well after indictment, and in most jurisdictions the courts do not force the prosecutor even to name his witnesses until he puts them on the stand during the trial to testify.

The fact that the Vice President is under investigation was known, and admitted, before the leaks occurred. So the only complaint Mr. Agnew really has is that the names of those prepared to testify against him, together with their testimony, may become public even though the grand jury disbelieves them. On this score there may be no provision in the Federal Rules of Criminal Procedure that explicitly authorizes disclosure of sworn grand jury testimony implicating a Vice President in criminal conduct, but there are certainly strong reasons of policy entitling the public to know of such evidence no matter what the grand jury decides. If the grand jury believes that Maryland contractors are deliberately lying and involving Mr. Agnew to save their own skins, one hopes that it will continue the investigation to see to it that, with a charge so important to the future of the nation, perjury indictments are returned. If on the other hand it believes the testimony of the witnesses and returns an indictment against the Vice President, the protection-of-the-accused justification for grand jury secrecy has evaporated. In any event in view of the disclosures that have already been made to the accused personally, it hardly seems justifiable for him now to be asserting the right to clamp a lid on proof that has not been produced by grand jury subpoena and has not even been considered by the grand jury.

The issue of *Time* Magazine that Mr. Agnew complained of contained, on the page facing the Agnew story, a report of a memo by the FBI's William Sullivan discussing use of the FBI by Presidents Roosevelt and Johnson in playing "dirty tricks" against their political opponents. The memo, said *Time*, is "still confidential, [but] its contents were divulged to *Time*." Not much has been heard from the White House, the Vice President or the attorney general on efforts to track down that leak. Nor, it appears, was there as much concern exhibited at the President's press conference over the possibility of influencing the federal grand jury favorably in the case of Messrs. Haldeman and Ehrlichman—who, like the Vice President, are waiting to see what the grand jury will do—as there was over unfavorable prejudice in Mr. Agnew's case. "I think," the President said of the Haldeman-Ehrlichman case, "that as all the facts come out . . . when they have an opportunity to have their case heard in court . . . they will be exonerated." As for the Vice President, Mr. Nixon's view was that it was "improper" to comment on his case before the grand jury's action.

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Stanley Kauffmann on films

Crime on Our Hands

Back from a month's loll in 16th-century French villages, I run smack into three US crime pictures. Maybe the contrast makes them seem especially harsh. Here they are, worst first.

Electra Glide in Blue (United Artists). The ads tell you not to miss the last seven minutes, to hear all of the song that's played under the last scenic shots and the credits. The ads are righter than they know: those are the best seven minutes. The camera pulls back very slowly on a highway in the Arizona desert; then freezes; then the color drains out slowly; and after a while the credits roll slowly. The conflict-synthesis of the two "motions," visual and aural, has a touch of daring, of sincerity.

The composer is James William Guercio, who also directed the film. So far he's a better composer. By and large his picture is an empty, ambitious fake—fake even in its ambition. It isn't even honestly *about* anything, except past films that Guercio has liked and disliked and wants to build on, in a yeasty way. He is one of the new American directing breed who know lots about filmmaking and very little about film, which is to say, very little about people, acting, rhythm of life and of art, very little about themselves. (About whom, alas, there is often little to know.) Guercio has no sense of proportion: the grotesquely magnified opening moments with the hero are irrelevant to anything that happens later. The camera (well handled by Conrad Hall) begins many sequences as it does this one, ludicrously close, a fly's-eye view, to no purpose, then pulls or pans away. All surfaces and textures are licked over, colors are torturously *wrung*. The general effect is of a 500-piece symphony orchestra playing *Pop Goes the Weasel*, with pet phrases dwelt on.

This is not only because Guercio is a more visual opportunist with no overall sense of design but because Robert Boris' script is puny and unorganic and imitative. (A drunken bar girl's virtuoso aria is almost a parody of Inge and Williams.) Electra Glide is the name of a model of motorcycle. The hero is an Arizona motorcycle cop who wants to be promoted detective, gets it, is discharged because he's been a better lover of the girl his boss also sleeps with, and then intuitively solves a murder. There are hippie communes in it and desert rats and lots more, but there isn't a discernible idea or resolution or even an attractive haphazardness. It all just keeps sweating, sententiously and irresolutely. If the picture doesn't occasionally remind you of *Easy Rider* throughout, the hero's fate certainly will. Except that here it's thematically pointless, where in the earlier picture it at least sledge-hammered something.

The only reason that the hero is short, as far as I can see, is that he's played by Robert Blake. His least effective performance so far.

Dillinger (AIP). John Dillinger is apparently engraved deep in the American psyche. In *Gravity's Rainbow*, Thomas Pynchon's absolutely staggering novel, Dillinger is one of the more vivid figures in the rich symbology, a defiant Manichean martyr. At the end of the book, at the end of World War II, one man gives another a handkerchief that he had dipped in Dillinger's blood outside the Chicago film theater where the G-men gunned the bandit down a decade before.

There was a Dillinger film in 1945, and he was a character in at least one other film, *Baby Face Nelson* (1957). In this new picture a woman dips a handkerchief in his blood, and there are a few other attempts to make this an epic of a "black" hero. Episodes are presented in blocks with subtitle labels; American landscape and society are plopped in regularly. Pastoral scenes alternate, like clockwork, with violent ones; small hints are dropped that Dillinger is a chalice of resentment for the Depression poor.

But for all the apparatus, the picture soon degenerates into a mod gangster flick because the writer-director John Milius has small artistic intelligence. Milius, who was co-author of the interesting *Jeremiah Johnson* and sole author of the disastrous *Judge Roy Bean*, has directed here for the first time, but he shows no particular gift for it so far, not even—like Guercio—any particular vices. He's more bearable than Guercio, but he just imitates along until he's finished.

He imitates Sam Peckinpah—gun-play as *modus vivendi*—but he lacks the complete amorality that, at his best, Peckinpah has; Milius is just being Naughty. Most often, he imitates *Bonnie and Clyde*. There is the same family reunion scene, the same comic country swain, the same slow-motion finish, and other touches. But Milius isn't classy enough to fail as *Bonnie and Clyde* did. The Benton-Newman-Penn film doesn't fulfill its grandiose thematic designs; Milius

(continued on page 35)

Films Worth Seeing

Bang the Drum Slowly. The best baseball picture I can remember. One player safeguards another who is (secretly) doomed by disease. Good sentiment and humor, inconclusive structure by Mark Harris; good direction by John Hancock.

The Friends of Eddie Coyle. The looks of this crime film are syrupy and wrong, but Robert Mitchum's performance as a gangland Willy Loman and the gravelly dialogue make it good underworld sociology.

The Hireling. Sarah Miles and Robert Shaw as titled lady and chauffeur give beautiful performances *within* which this nicely modeled little tragedy exists.

Last Tango in Paris. Burdened with silly overpraise, adolescently profound, it nevertheless has the genuine musk of sex in the early Brando-Schneider scenes.

State of Siege. The Tupamaro abduction and murder of a US official in Uruguay, 1970, re-created without the objectivity it claims but with excitement and point.

A Touch of Class. If you saw Glenda Jackson here for the first time, you'd think she was a fine comedienne, period. (She can do *anything*.) Mostly fast and frivolous old-style comedy-romance.

SK

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Crawford Woods on TV

TVBE

September will see the first regular issue of TVBE, a new monthly magazine about television. The name is clever and a breakdown of it might tell us what to expect. The first letters, of course, give "TV," which at the root—far sight—means broadcasting, and has come to imply alternative media as well, but the V-for-U also recalls the Latin letters that grace our public buildings, Brutus remembered as Brvtvs and so forth. So TVBE will be historical and even classical! Then as the word itself is slang for the medium TVBE will be informal. As it suggests the lab it will be analytical. Taken together no small promise is contained in four letters.

The notes that follow refer to a special pilot issue of the magazine.

Within a format most like *Rolling Stone*'s, TVBE is discovering its objects and editorial stances much as a ship finds its own leaks on a shakedown cruise. For some reason its best material has sifted to the bottom, leaving pieces on top or in front that are better suited to the great bag of rags about daytime television filling the magazine racks. Matter, not manner, is at fault, since the writing is good enough, and each piece is stamped with the invisible raised eyebrow that is the hallmark of the best personal journalism.

But with public television going down the chute (a fact TVBE certainly doesn't ignore), a backward glance at "Star Trek" seems uninteresting and yet another ironic look at a game show feels like overkill. These are personal prejudices, to be sure, and in its search for an audience large enough to keep it alive, TVBE has wisely included TV's deadest waters in its scope. (This is more likely taste than policy; TVBE's reporters, all of whom seem to be young, and all of whom carry credentials like "lives in a dome in Beirut" and "holds a PhD in heavy water physics and is at work on a mung bean cookbook," often shamelessly confess their fondnesses for the most appalling glop. This is to their credit and makes muscle for their book. There're already enough self-appointed pundits like me sniffing the airwaves with the pained expression of a condominium dweller encountering dog-drop.)

The magazine shows perhaps a bit too much fondness for the interview-as-article, which is everybody's favorite lazy way of ordering material without effort. On-the-bone interviews can be terrific, but the TVBE interviewers can be too obliging. For anybody hawking a product an enquiring reporter is a potential unpaid publicity man. A sturdy new paper should beware.

Another problem with verbatim interviews is that they force the reader to listen to stock cant only the reporter should have had to endure such as, "It has been a very rewarding experience for me to be in the creative end . . . A fantastic, creative man, and probably one of the most exciting producers around. . . ." Unless you *want* your subject to look like a dolt, lines like these need to be pruned from the story.

So: a little much fluff, and too many half-dutiful interviews, including the obligatory (but at least aggressive) chat with Craig Gilbert and an inconsequential talk with Steve Allen.

Once past these reefs, however, sloop TVBE looks good. Many columns already have the languid assured tone of permanent fixtures, holding in their sights everything from videofreaks to the FCC and often drawing blood. I particularly enjoyed Dorothy Feeley's cold water on cable—"Who could stand hour after hour of 5 minute harangues on the insanely miscellaneous variety of topics that would appear on the public access channel?"—and the realism of one of her interviewees—"I get sick of hearing all the radical rhetoric that some groups are spouting. The worst thing that could happen to public access is that people become convinced that it's just a bunch of longhaired freaks trying to grab the media."

Some other random samples:

Ira Zarov on a recent FCC decision: "First they recognized the public's need to be informed, and the consequent need for the fairness doctrine . . . [then] turned around and said that the financial structure of commercial television . . . made it impractical to bring commercials within the working of the doctrine. In fairness, they made two exceptions, one for cigarettes and the second for commercials that aren't really commercials. The last category being somewhat fuzzy."

Roger Snodgrass on videotape: "Later that night I read through some of the scrapbooks around the house. The articles shuffle the names of groups and individuals around a recent curiosity, but there is always the sense that video is a bounded phenomena [sic], something to sit back and observe, check on once in a while to see if it's assimilating better, as the main names are shuffled and the investment grows. Call it the Air War on video. It's meant to keep you at bay."

The rest of TVBE is filled out by reviews, hardware reports, book notes, games and confessionals, all readable and, as the communicators say, information-rich.

It's hard to make survival odds on a publication like this. Started on a shoestring, without benefit of Big Names, in a market-place that shoots out and devours its new creations daily. But the truth is, TVBE is not at the moment duplicating anybody else's effort. There are technical and scholarly journals for those who need them, newspapers to cover network upchuck as it's chucked up, magazines to offer limited weekly views—nothing quite like TVBE. I wish it well.

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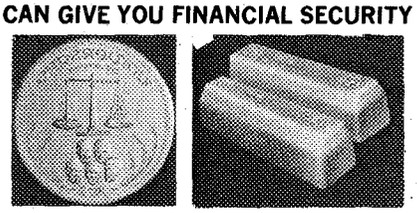

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The Damnable Art

"What is the Good of History?" Selected Letters of Carl L. Becker

edited by Michael Kammen

(Cornell University Press; $12.50)

Carl Lotus Becker was born on a farm in Iowa, went to Cornell College (Iowa) and the University of Wisconsin, then on into the world of college teaching. Upon retirement he observed in a letter to Max Lerner that "as rackets go, teaching is a good one, but after 42 years of it one is content." Nearly 25 of those years were at Cornell University where, characteristically, he observed of himself that he had not done the great things for his students that some of them thought he had: "I (so it seems to me) have done nothing but sit around and look wise and tell them they have more capacity than they think—more sometimes than I think myself." As for his qualifications as a historical scholar, he once described somebody else's book as "giving evidence on every page of having been written by one who knows his subject down to the ground—something my books never show . . . ." Of his writing talent he could be equally disparaging, complaining to disciple Leo Gershoy,

> If I can average a page a day of completed ms, working three or four hours in the morning, with nothing to distract me, I do well. I usually write and throw away ten pages to get one that will pass. And I am fifty-one years old and have been practising the damnable art for thirty years. At your age I couldn't write anything that would bear the light of day.

The quotations exaggerate his modesty but they do suggest his brand of skepticism. Seldom, he felt, did men come within shouting distance of their hopes for themselves.

And yet he was confident that the ones most likely to come within shouting distance were those in the teaching and writing and other artistic "rackets," not those in politics or business. He came back from a concert and wrote a friend,

> . . . as I listened to these men what came over me with overwhelming force was the honesty and genuineness of what they were doing. The same is true of all genuine art, scholarship, craftsmanship, and of all human activity which has for its primary object the creation of something beautiful or useful, or the discovery of some truth, or the doing of something helpful to others. But most of politics, and much of business, has none of these for their primary object; their primary object is the gaining of some advantage over others; and hence there is a subtle taint of unreality and accordingly of dishonesty about these enterprises that warps and falsifies the minds of their followers.

His search for the genuine led him into history, where he kept his nose to the grindstone, except for bouts of illness and consequent depression, with extraordinary pertinacity. The letters published here, in this excellent collection covering nearly half a century, reveal to us a dedicated artist-scholar who was committed to 99 percent work and one percent play, and might have been a very dull artist-scholar indeed if it had not been for his wit and talent. As he observed of himself, when he was sprung from his normal Ithacan surroundings for a summer in the wicked city of Chicago, he was simply incapable of sowing wild oats: "with the best will in the world I can't break away from the virtuous dull habits of a lifetime. The most I've been able to achieve is to seek out, on hot nights, a gilded palace of sin where they sell ice cream sodas."

He wasn't even well traveled, and on his one trip to Europe his letters home were full of conventional tourist observations, plus a solid pedagogical display of exposition, to his son, about Holland's dikes and canals, and what "sans culottes" means. Yet he became one of our great historians. It seems necessary and right that he should have become primarily and preeminently a historian of the mind and *its* travels.

An English teacher may be presumptuous to take on a highly professional historian in a review; but as Becker was skeptical of the merit of reviews and reviewers anyway, and as his reputation is almost as high among English teachers as among his own kind, I'll take the chance. I do so because he, as a historian of the mind, turned the trick for me at a crucial time in my education; that is, in just a few pages he brought me, while I was in college, a way of looking at history that is still the way I look at it though I am now old and infinitely wise. The few pages were right at the beginning of his justly celebrated volume, *The Heavenly City of the 18th Century Philosophers*, where he notes that if a medieval man and a modern man were to sit down together and talk about "natural law" they could talk all night without making sense to one another. I hadn't *thought* about that sort of trouble before I read *The Heavenly City*, but ever since then I've thought about it too much and I blame Becker. He it was who made me aware that the grand words and concepts that wandered through my head tended to get their meanings *from* my head, or my neighbors' heads, not from some immutable, objective storehouse. Which was not to say that objectivity was not a historian's ideal—it just didn't quite exist.

Becker's whole theory of history is suggested by those few pages at the beginning of *The Heavenly City*. Throughout his career as a historian he was committed to a search for man's "unconscious preconceptions" and how these produced in any given age and culture a "climate of opinion" that governed man's ways of understanding—opinion, that is, that was antecedent to the "facts" and first premises believed in by even the best intelligences of the age and culture. (He traced the phrase "climate of opinion" back to the 17th century, and credited Alfred North Whitehead with bringing it into modern usage; but for me it has always been Becker's phrase.) Sometimes he ridiculed that climate; he would go out of his way, as he once did in a discouraged letter to William Dodd following World War I, to assert that the persistent dominance of the climate was a manifestation of how confused men's minds were, how incapable they were

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of thinking except with their emotions; but always he was concerned with exploring and assessing that climate. History was for him a long narrative about the changes in that climate.

After Becker brought me this news I had what I needed to be suspicious ever after of the hard-facts school of history; and as if that were not enough he also brought me an intimately related bit of news to the effect that history was a literary venture, a creating and ordering on the page. Becker was himself an obsessed creator and orderer, so much so that he frequently complained of his own obsession; for example he said he feared his second book (*The Beginnings of the American People*, 1915) was "fundamentally superficial." He added, "in places it verges closely on fine writing. I wish to write well; but I have a horror of being thought rhetorical." He also complained constantly of rhetorical excesses in others. Yet he was a brilliant rhetorician and it was particularly this brilliance that set him apart from most of his academic colleagues—in English, I might add, as well as history.

But students are not, I have discovered, apt to be impressed by his powers with language. I can remember struggling for several years to interest freshmen in the verbal precision and high gloss of some of the paragraphs in *Modern Democracy*, a late book of his that became a familiar college workhorse after World War II. The freshmen remained unmoved by my praise, so I could only take solace in being myself moved; I was impressed by how sharply a broad generalization could, in the hands of a master, be honed, and how much of the whole blasted quest for truth and understanding was contingent upon such honing.

His hero was Frederick Jackson Turner, under whose spell he came at Wisconsin; and among the many compliments he paid that master was that he had implanted in the young Becker "the holy fear of the dishonest and the second best, of words without sense, of easy generalizations unballasted with knowlege." Naturally we would expect then that on Becker's list of *non*heroes would be found those who did not care for precision—for journalists who make a profession out of "warping facts to make a good story"; for the writers of doctoral theses who wear muddy boots; for educators ready with new programs but unable to find minds even capable of defining the programs sensibly. His stance as a skeptic received daily aid and comfort from idealists of various shades whose chief imprecision, he kept insisting, was in confusing aspiration with possibility. A comic letter in 1926 to the editor of the *Cornell Daily Sun* takes up the sad case of "five bewildered freshmen" who have just written the paper to say that "they have been engaged in the intellectual life for more than two months and don't know what it's all about," and thereupon to call, with the apparent aid and backing of some faculty do-gooders, for a new orientation course for freshmen. The opportunity for reply was obviously a delightful one. Becker accepted it and, after worrying about the problem of how long it takes to get oriented ("life itself is scarcely long enough to find out what it's all about"), he went on to wonder who would do the orienting, and ran through a number of names before settling on H. G. Wells!

> [He] might give such a course, and it would be a good course. I doubt if it would orient anyone or settle anything, but it would stir the students up and make them think. That would be its great merit. That is the chief merit of any course—that it unsettles students [disorients them?], makes them ask questions.

Of course the expenditure of great energies on such skeptical disputation may leave less energy for other enterprises. Becker may well go down in history circles more for his precision than his ideological fire. He served democracy and education well, for example, as a worker in their vineyards but not as a passionate advocate. Although he managed to get himself labeled as a Communist in the '30s, the charge was absurd (he himself documented the absurdity in a fine letter to one of the Hearst papers that made the charge), and in fact he did not fit comfortably under any political label, even that of liberal, here distinguishing himself from his friendly competitors Charles and Mary Beard. His precisions led him mostly to the unfiery conclusion that in politics men muddled through.

Also, since the pursuit of precision led him inevitably into qualification and irony, he may not be remembered for many of the sweepingly presumptive truths (put forth, he liked to say, without fear and without research) that he loved to quote ironically when he heard them from others. To these deficiencies, if they are that, must be added the ironic "climate" difficulty that some of his works now find themselves in: they were written as formal lectures. Everybody *now* knows that formal lectures are devoid of spontaneity, energy and primal truth.

Both *The Heavenly City* and *Modern Democracy* were written as lectures, and so were many of his other mature writings, for the lecture form became as it were his genre. Looking at his lecture manner today I have to agree with my students that there is sometimes a forbidding formality about it. If he had been a poet—and to the best of my knowledge he was not, though he sprinkled doggerel through his letters with great glee—he would have been of the old school of iambics and quatrains, and have therefore been accused of insincerity and conventionality. But having said that I have said about all I can say against the man's words, and that isn't much. The climate for finished formal statement may have been disrupted in recent years by a hot romantic weather front out of the anti-academic hills, but we can still reasonably hope the disruption is temporary.

This is a well-edited volume that emphasizes the professional-man Becker, the writer Becker and the ideological Becker—but shows us the private life too. The private life looks not to have

Note:

The New Republic regrets that in its issue of August 11, 1973, John Seelye appeared to imply that John Gregory Dunne shared responsibility for the death of the late Arthur P. Jacobs. Mr. Dunne was of course, in no way responsible for Mr. Jacobs' death. Both The New Republic and Mr. Seelye wish to repudiate any implication that Mr. Dunne was either in fact or metaphorically a "killer" and regret exceedingly if any such implication was drawn.

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been a happy one, and I suspect—though a letter selection may be deceiving in this respect—that in his younger days his professional dedication made him a preoccupied and rather unsympathetic husband and father. Fortunately the early letters are more full of business than the late; the impression I receive is that he slowly lapsed from diligence into humanity. Certainly the late letters, even to his colleagues on dull departmental issues, display a generous warmth. The warmest of these are to Leo Gershoy and his wife and to the Lerners; but many other persons were also lucky enough to have extensive correspondence with this extraordinary man.

Editor Michael Kammen is a professor at Cornell, and his volume is obviously a labor of affection and admiration. It is trussed up with a goodly number of footnotes we might have been spared (what and where Martha's Vineyard is, who wrote *The Sun Also Rises*), but it has an excellent brief introduction. I can only say, as an outsider to the present state of affairs of history departments—or perhaps not an outsider but a character across the hall—that looking at this rewarding yet thoroughly conservative piece of scholarship persuades me that the Young Turks Haven't Taken Over History Completely Yet.

Yet the academic conservatism of Becker's editor did provoke in me as I read the volume a few depressing final thoughts about Becker's own stance, not on footnotes—which he didn't like much—but politics. For my hero's politics were of the in-between variety common to intellectuals who pride themselves on their pragmatism, and his *Modern Democracy* for all its virtues does not as a result stand up well as a guide to action in our time—but rather as a guide to depressed resignation.

"While a little betrayal is a normal thing," he said in *Modern Democracy* in 1940, "the liberal-democratic revolution has been so far betrayed, the ideal so imperfectly portrayed in the course of events, that its characteristic features cannot be easily recognized in any democratic society today." He went on to add the obvious, that it was in the economic realm that "the discord between democracy as an ideal and democracy as a going concern is most flagrant, most disillusioning and most dangerous." The distribution of wealth, he asserted, had gone so far askew that the arguments of revolutionaries against the private property system had achieved more than usually depressing cogency. Yes, but at this point the nonrevolutionary Becker backed off. It was 1940, and naturally he liked not the look of either fascism or communism. He could agree with socialists of various shades that a more equitable distribution of wealth was essential, and could acknowledge that no such distribution could be achieved without the capitalist class surrendering in some measure the powers that the institution of private property conferred upon it, but such thoughts did not give him a revolutionary buzz. He felt good about the ruling class; he denied the radical premise that the ruling class would *necessarily* hang on to its powers "except under the compulsion of naked force." As a result he looked not to Berlin or Moscow or anywhere else for solutions, but to Washington and to the slow enactment by democratic means of what FDR's administration was all about, increased governmental regulation of economic enterprise. He even naively imagined the "formal socialization of certain basic industries" by ordinary democratic legislation. His chief concern was not that democracy and capitalism couldn't accommodate themselves to the social need but that the accommodation would take time, time he feared the encroaching war would not provide.

There ended his argument in *Modern Democracy*. With the characteristic caution of an essentially conservative mind he went no further in his meditation upon what should be done.

Would he, if he were alive today, still display such caution? Time we have had in abundance. We have had another 30 years' worth of time, and we have disposed of approximately three wars without losing our freedoms and therefore the *capacity*—which is what he worried about—to transform our condition "by the pragmatic democratic method." Yet all we have to show for those years is further betrayal of the democratic ideals, greater and greater economic inequity. Hero, some of your fine words I think it would be best for you now to eat.

Reed Whittemore

Blue Collar Blues

The New Populism

by Fred R. Harris

(Saturday Review Press; $6.95)

Books by politicians tend to be boring, staff-produced efforts designed to display The Boss as a thoughtful public servant. They stimulate the mind about as much as a tummyful of turned yogurt. Former Senator Harris' latest volume is, like others of the genre, a pastiche of personal anecdotes, old Senate speeches and recommendations for bold new policies. But it *is* stimulating and far better than Alka Seltzer as a treatment for the liberal blahs. What sets it apart is Harris' unique angle of vision. He is the only politician on the scene who 1) has remote presidential possibilities and 2) says publicly and indeed vociferously that American capitalism is a shuck.

How the realities of capitalism in this country could remain shrouded for as long as they have is a mystery not readily penetrated. Free enterprise, says the folklore, is wonderful, but hardly anyone bothers to inform us that it doesn't exist. Nor is it frequently bruited about that under the system that does exist, the rich continue to get richer while the rest of us get screwed for their benefit. It seems to be one of the job requirements for politicians that they help preserve these little secrets.

A few years ago, then-Senator Harris decided not to stick by the game plan (which is one reason he couldn't raise money for his 1972 presidential bid). Economic classes do exist in America, he began insisting. Their boundaries are fairly rigid, and their root cause is not the slothfulness of the indigent but the power of the privileged. Such being

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the case, Harris would continue, the primary function of government should be to make the rich poorer so that the rest of us can get a larger slice of the pie we help produce. The government should do this not through "liberal" programs that require enormous bureaucratic contortions to deliver minimal services to narrowly defined categories of recipients (the "medically indigent," the ill-fed and the poorly housed), but through tax and antitrust policies that redistribute wealth in the form of cash, stock and lower prices. All these ideas are further developed in *The New Populism.*

A virtue of the book is that Harris makes his arguments without slipping into demagoguery on the one side or statistical tedium on the other. His style is enlightening, wry and human. He embellishes a discussion of the power of banks with a description of the way his father—"a tough, independent, wiry, cowboy sort of person"—would instantly lose his swagger when he walked into the local bank. "He took off his hat the minute he entered the door. He waited his turn. When he was called through the swinging doors of the waist-high oak bar, my father stood at the banker's desk till he was asked to sit." Elsewhere Harris compares antitrust enforcement to his memories of Prohibition in Oklahoma: "A sheriff every now and then would make a big show of raiding a selected bootlegger and publicly destroying his wares. The papers would carry front-page pictures of the sheriff with ax in hand, standing over the broken bottles while whiskey ran in the gutters. Then everyone would relax again." And he gleefully observes that those who most often hail the work ethic have jobs in clean, safe offices and make lots of money from property ownership. "President Nixon himself, praising the ennobling effect of work on those who perform it, once said that there's as much dignity in emptying bedpans as there is in serving as President of the United States. So far as is known, no emptier of bedpans has been heard to agree."

Harris cites, of course, the inevitable hard-core statistics, such as the fact that "two percent of the people in America own 80 percent of all individually held corporate stock and 90 percent of all individually held corporate bonds." It is these statistics that make the folklore of capitalism seem absurd. "Since most U. S. economic growth is in corporate capital and internally generated, it is simply wrong to assume that if the economic pie gets larger 'everybody' will be better off. Instead, the maldistribution of wealth and ownership will grow."

It is also wrong to assume that workers will be happy with their lot. Harris' best pages deal with the "blue collar blues" that have lately become such a fashionable subject of concern. Of course workers are discontented, Harris argues, when their jobs are monotonous, their working conditions perilous, and their wages one-fiftieth the earnings of their corporate bosses (not to mention their union leaders). Harris would give workers more power in the workplace and spread ownership of corporate stock *à la* Louis Kelso. He'd also end subsidies to the rich (well documented by Senator Proxmire's Joint Economic Committee), introduce a negative income tax, break up the auto, steel, oil, rubber and other "shared monopolies," and either abolish the regulatory agencies or make them serve the public's interest rather than the regulated industries'.

In all, it's a pretty good program that Harris pulls together under the banner of New Populism, yet I'm struck by a curious limitation. For all his skill in dissecting myths and inequities, Harris concludes—or rather states as a premise—that the remedy for modern capitalism's ailments is . . . old-fashioned capitalism. The notion that private enterprise in America could stay egalitarian and competitive was hopeless nostalgia by the 1890s and is sheer fantasy today, Ralph Nader and old-tie antitrusters notwithstanding. The Sherman Act has been on the books for nearly a century; similar laws date back to the early 1900s. Despite these laws, enormous, minimally competitive corporations have flourished for the same reason bootleggers thrived during Prohibition: we like what they make, and nobody else is making it. The logical conclusion would be: don't blame the sheriff, blame the lack of alternate sources of gratification. And the logical remedy would be: if General Motors won't reduce prices or build a safe nonpolluting car, then let the government buy 51 percent of Chrysler and start setting auto policy itself.

That public competition is a viable response to private monopoly is an idea whose time came long ago in almost every country save the United States. Its sole advocate of stature in these parts is John Kenneth Galbraith, who spoke of it at a Nader-sponsored conference in 1972. Harris took Galbraith to task at the conference, as he does in *The New Populism*, on the grounds that bigness is generally bad wherever it is found, whether in private corporations or government. Few would disagree if the issue were merely the virtue of smallness versus bigness. Alas, the problem must be looked at more pragmatically, and through the prism of history. After three generations it should be clear that sheriffs can't save smallness. On the other hand, it may still be possible for public enterprise to save competition, and in the process do something about inflation. It's worth exploring, yet no one does so seriously. The capitalist folklore lingers, even in the most unlikely places.

Peter Barnes

Who should subsidize American colleges and universities?

We should. We must. We shall.

For tuition alone rarely, if ever, covers the cost of a youngster's college education.

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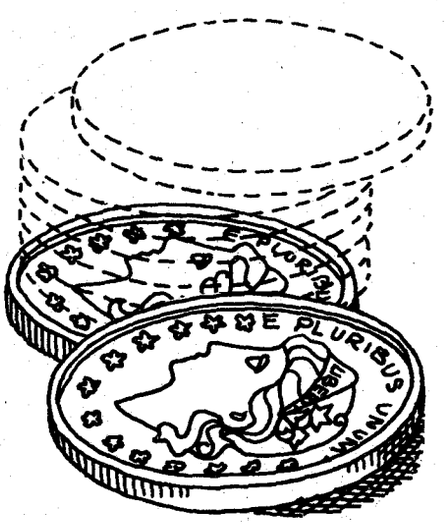

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Unlikely Orthodoxy

G. K. Chesterton

by Dudley Barker

(Stein & Day; $8.95)

Do readers still make the acquaintance of Father Brown, Chesterton's little priest-detective who used psychological clues in lieu of fingerprints? Does anyone under middle age follow Chesterton's thought through his critical studies on Dickens and Browning or in essays bearing arch titles like *Tremendous Trifles* or pompous titles like *What's Wrong with the World?* Do people who condemn realism as old hat read *The Man Who Was Thursday*, that fantasy about anarchists in which Chesterton plowed up Kafka ground before Kafka got there?

No matter. Barker's biography of G. K. C. would be justified even if no books had been left behind as legacy, for G. K. C. was one of those sometimes spiteful but generally engaging English eccentrics whose life and habits were as implausible as anything he ever wrote.

Gilbert Keith Chesterton, who described himself as falstaffian and might possibly have drunk Shakespeare's knight under any table in London, was one of the least likely looking defenders of orthodoxy known to letters between the '90s and his death in 1936. An enthusiastic stroller of London streets in the tradition of Dickens, he armed himself under the romantic pretense that he took his life in his hands whenever he ventured outdoors. Besides his sword-cane he sometimes beefed up his defenses with a pocket pistol. And, as if his 300-pound bulk wasn't sufficiently distinguishing, he added a note of novelty by wearing a cape and a wide-brimmed hat that gave him the look of a bandit setting out to rob a stagecoach.

A passion for the spotlight explains some of the eccentricities. But in private as well as in public Chesterton gratified a taste for idiosyncrasy—such as grabbing a bow and firing arrows through an open window when he had been dictating and the desired phrase had eluded him. His absent-mindedness, though Barker charges much of it to affectation, drew notice even in boyhood; it was no trick for classmates to stuff snowballs into his pockets as he moved with a sleepwalking air through the schoolyard. In his 20s he amused fellow staffers in a publishing house by splattering his face, hair, hands and shirt cuffs with ink every time he operated a duplicating machine. One story had it that during his Fleet Street days he sat in a restaurant gesturing vigorously, sent two poached eggs flying into his roomy lap, and after a vain search ordered two more. And the best-known anecdote described him as setting forth to lecture, finding himself in a strange town, and thereupon cabling to his wife: "Where ought I to be?" only to be pulled up sharp as she replied: "Home."

Wages of Sin, Sin of Wages

After his check bounced and the rich doctor sued him
The professor
    who indeed was a full professor
    with three fine degrees and a glorious parking permit
Began to feel poorly

It was in his joints
It was in his gut
    and his mortgage flew out the window!

He lay in his bed and his banker came in a dream to him
Angrily saying
    "son you have sinned"
And when he awoke the sinning was full sore upon him

In his joints
In his gut

So that wherever he went in his pain in the cruel moneyed city
The rich would study his pain and know him
As one with the money sickness
Tch Tch

Ah but the land was sick!
The vines grew to wildness
The flowers were choked
By hateful burdocks and thistles

And who could go fishing?
The waters had oil upon them

And who could perambulate
In a smog alert?

In its joints
In its gut

—In the shade of the money trees
Sat the land's fifty thousand
Oil men bankers and doctors

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He was literally at a loss when he wrestled with money matters; eventually his wife persuaded him to sign documents granting her control of his earnings. Similarly she convinced him they would be happier if they moved to the country, where he could not indulge his extravagant eating and drinking habits. His departure from London raised the hackles of Fleet Street cronies, including his brother Cecil. Cecil talked semi-seriously of kidnapping poor G. K. C. and hauling him off to Paris.

While he was a faithful husband, tipsy or sober, Mrs. Chesterton considered his life as a "jolly journalist" ruinous and thought the rural quiet of Beaconsfield would enable him to produce masterpieces instead of the spontaneous, ill-planned work scribbled all too often in taverns and carriages. Somehow the miracle she hoped for—perhaps, in her piety, prayed for—never came. Barker doesn't explore the question of what went wrong and his remark that Chesterton was a second-rate writer leaves unanswered why his books abound in brilliance yet in no instance prove altogether satisfactory.

First of all, in spite of his reputation as a primarily serious writer, in spite of his concern with ethical and religious questions, in spite of his admirers' belief that his quips and epigrams and paradoxes indicated depths beneath depths, he was too frequently guilty of affectation to be a responsible spokesman for men and women on the Right. His optimism, moreover, was often strained and unconvincing. He was a hypochondriac from the start, grossly overworked even at Beaconsfield and at one time under contract for 30 books, incapable except for one interlude of throwing off his drinking habit, and succumbing in middle age to a breakdown that nearly killed him.

Then too the pressure to churn out quantities of work intensified his cavalier attitude toward facts. In *A Short History of England* this indifference to accuracy, united with a strong bias in behalf of the Middle Ages, led him to assert that medieval serfs were happy fellows because they belonged to the land and were free from the modern scourge of landlordism. In *Charles Dickens* his carelessness plunged him into judgments even less safe and sane and he found Dickens' "shortest postcard . . . often as good as his ablest novel"—though Britain printed her first postcards some months after the Victorian novelist died. Chesterton risked still wilder judgments when he got into social and political subjects, supporting Zionism for instance (despite his blatant anti-Semite outlook) on the grounds that it would drain the Christian world of its Jewish population.

His anti-Semitism represented one of Chesterton's few displays of waspishness and Barker therefore holds that G. K. C. never managed to come across forcefully as a polemic journalist. His troubles as an author who was persistently "against" were increased besides by the fact that he wasn't knowledgeable enough to make his arguments stick as he belabored agnosticism, materialism, feminism, birth control, imperialism, pacifism, internationalism, communism, futuristic art, realistic fiction and a spate of other items on his enemies list.

Wisely limiting his critical remarks to a fraction of the 88 books Chesterton authored, Barker writes with a tightness of style and general distinction that Maisie Ward's two tomes on G. K. C. never approached. In spite of his comparative brevity Barker brings to the surface facts earlier biographers ignored or hadn't access to and it is un-

Upright and motionless
Being served lunch

When the sun set
The oil men bankers and doctors sat by the money trees
Being served supper and
"oh my soul"
Said the full professor
"I have been studying
How to compare this prison wherein I live

unto a prison
Is not destruction unto the wicked?
—My Lord
If in scholarship I had been slipshod
Or my four-score sheep had been fed not . . ."

But the Lord rushed out from his whirlwind
On his right hand an angel who'd made it in slum housing
On his left an angel who'd looted the March of Dimes

And the Lord said
"thou salaried worm
Whose monthly deductions equal thy take-home pittance
Thinkst thou the Lord God created heaven and earth
For the salaried?
Canst *thou* make a million simoleons twixt summer and winter
Solstice and pay no tax?
How much of thy capital yieldest 50%?
Where are thy merger papers? Who canst thou buy? Who bleed?
Who scuttle?
Canst thou put a hook in the nose of the law and go live in Switzerland?"

"Behold I *am* vile"
said the professor
"*and* on salary
And what if I were
an *associate*
professor merely?"
—Sick sick
In joints in gut

So God blessed him
And sent him to bankruptcy court.

JOB

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fortunate that he has played down his scholarship, omitting even minimal footnotes. He would also have served his author better had he listed Chesterton books still in print, for he will almost certainly create new readers for G. K. C. and send old readers back to him besides.

James Walt

Where It First Happened

Flags in the Dust

by William Faulkner
edited and with an introduction by Douglas Day

(Random House; $8.95)

In the mid-'50s, when his reputation was at last secure and he had settled comfortably into the role of literary elder statesman, William Faulkner surveyed his work and found it good. He told an interviewer: "I like to think of the world I created as being a kind of keystone in the universe; that, small as the keystone is, if it were ever taken away the universe would collapse."

That may on first impression seem arrogant and grandiose, but Faulkner was merely stating—with considerable eloquence and not a little poignancy—the yearning of any writer of broad and serious purpose: to make his or her work a microcosm of human experience. Faulkner's microcosm was "my own little postage stamp of native soil," a county in Mississippi which he called Yoknapatawpha; which had a county seat called Jefferson and an outlying settlement called Frenchman's Bend; which was populated by, among others, fading aristocrats, predatory white trash, omniscient Negroes, a rising middle class, spotted horses, hound dogs and mules.

By the time of Faulkner's death in 1962 it had become an enormous world, no matter how small the space it occupied. The saga of Yoknapatawpha encompasses 15 novels and four collections of short stories, published between 1929 and 1962. There is no orderly way to arrange the saga; it has no beginning, middle or end, and one cannot say to a reader approaching it for the first time, "start here." It is a tapestry of incomparable intricacy, past and present woven together in a design that can be comprehended through one book but that gains astonishing richness when seen as a whole.

No less astonishing than the richness of the design is that Faulkner had it all in mind when he began, in 1926, to write a novel that he titled *Flags in the Dust*. At the time he was living in Oxford and he had a local reputation as a ne'er-do-well and accomplished loafer: he had been fired as postmaster after it was discovered that he spent much of his time reading other people's postcards, which he neglected to deliver. He had literary aspirations and indeed had published a small volume of dreadfully romantic poetry and two unsuccessful novels, but his prospects were not promising.

He had been advised, however, by his mentor Sherwood Anderson, to write about his own Mississippi, and in 1926 he set out to do that. He wrote *Flags in the Dust*, but the finished manuscript was rejected left and right. Finally Harcourt Brace agreed to publish it on the condition that it be severely cut, a task Faulkner could not bring himself to do; the cuts were made by his agent, Ben Wasson, and the novel was published as *Sartoris*. Faulkner's affection for the original never faded, however, and he preserved the manuscript and typescript; we have it now in an edition edited by Douglas Day and, though he is credited only in the introduction, Albert Erskine.

Obviously *Flags in the Dust* will be of great value to Faulkner scholars (though presumably many of them have already had access to the manuscript), but the book is of broader value. It offers the opportunity to observe, by comparing it with *Sartoris*, what happens to a manuscript when it comes into the hands of an intelligent and demanding editor. Of far more importance, *Flags in the Dust*, because it is much more intricate than *Sartoris*, makes clear that everything that would engage Faulkner for three and a half decades had formed in his imagination at the outset.

Whether the original version is "better" than *Sartoris* is open to question and, no matter what Faulkner may have thought, of relatively little moment. Indisputably it is a quite different book. Wasson felt that Faulkner had given his imagination too much play, bringing in material that was essentially peripheral and thus subordinating the central story of the Sartoris family and its romantic, self-destructive gallantry. Though he did not wholly eliminate any characters whom Faulkner regarded as important, he did sharply reduce their roles, notably those of Byron Snopes and Horace Benbow; extended passages about both were thrown out—though the essence of the material would eventually appear, in altered but recognizable form, in Faulkner's later fiction. For whatever it is worth *Sartoris* seems to be "better" in that it is more tightly constructed, but *Flags in the Dust* is, as Faulkner so firmly believed, more ambitious, complex and varied.

To what extent Faulkner participated in the editing process is not at all clear, but there are some passages that go beyond justifiable cutting into questionable tinkering. There are many examples, but here are two:

> *Flags in the Dust:* "He settled into the routine of days between office and home."
>
> *Sartoris:* "He was settled soon and easily into the routine of days between his office and his home."

> *Flags in the Dust:* "From his chair, she at the piano was half in shadow. Twilight was deeper yet; only the line of her bent head and her back, tragic and still, somehow young."
>
> *Sartoris:* "He obeyed; she on the piano bench was in half shadow. Twilight was almost accomplished; only the line of her bent head and her back, tragic and still, making him feel young again."

It is perhaps a matter of taste, but on the whole it seems to me that these altera-

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tions, whether Wasson's or Faulkner's, substitute wordiness for clarity. In each case I prefer the original.

But such comparisons, interesting though they may be, are not the point. What matters, what *Flags in the Dust* emphasizes, is that in 1926 Faulkner knew exactly where he was going. The people and the themes were all there, alive in his mind and waiting only to appear on paper. The first novel in the Snopes trilogy for example, *The Hamlet*, was not published until 1940; yet the Snopes family was on the scene in 1926 and it did not change significantly in the years to come. Other names—Compson, Sutpen, Beauchamp, Drake, Ratliff—would not emerge until later novels, but the characters were waiting in the wings; even as Wasson edited what would be *Sartoris*, Mr. Day tells us, Faulkner sat in the same room writing what would be *The Sound and the Fury*.

Only Faulkner knew what happened in 1926, how it was that this vast world suddenly opened in his mind, and Faulkner did not care to talk about the inner sources of his fiction. We know that he was surrounded by the Southern past; but so was every other Southerner. We know that he had first-hand acquaintance with class rivalry and racial oppression; but so did every other Southerner. We know that the big woods and the fecund soil were palpable presences in his life; but they were in the life of every other Southerner.

Something happened: that is all we know, and to go farther would be mere speculation. It first happened in *Flags in the Dust*, and whatever its merits it is invaluable as evidence of the vigor and confidence with which Faulkner set out on the long journey through his world.

Jonathan Yardley

Coming: Joseph Featherstone on Daniel Bell's post-industrial society, a two-part essay

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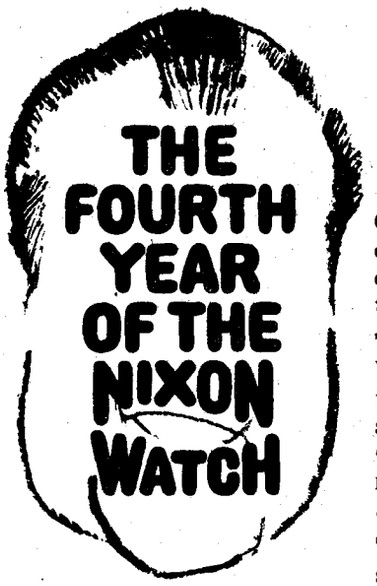
NOTES ON CONTRIBUTORS

JAMES WALT *is an associate professor of English at the University of Maryland.* JONATHAN YARDLEY, *book editor of* The Greensboro Daily News, *served on this year's fiction panel for the National Book Awards.* CRAWFORD WOODS *has moved back from New Mexico to Washington, DC.*

JOHN OSBORNE



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ROBERT J. MYERS

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Correspondence

Sorting Out Contributors

Sirs:

An article written by Mr. Tad Szulc entitled "Super Contributors" which appeared in your August 11, 1973 issue, reported a $150,000 contribution from Edgar Allen Brown, executive vice president of the Lone Star Gas Company of Dallas, to the Committee for the Reelection of the President.

I did not make the contribution stated in the above article, either personally or on behalf of any other person or company. This is to inform you that I retired from Lone Star Gas Company on January 31, 1968, and have not since that time been associated with that company directly or indirectly in any capacity.

Any political contribution that I may make or have made is personal in nature and nominal in amount, at no time exceeding $200.

Please retract your erroneous report.

Edgar Allen Brown
Dallas, Texas

Sirs:

No contribution was made to the [Nixon reelection] committee in Lone Star's corporate name nor from its corporate funds, nor to the President directly nor to any of his representatives; nor to my knowledge was any such contribution made by an officer, or representative, of Lone Star Gas Company.

W. C. McCord
Pres., Lone Star Gas Co.

Mr. Szulc replies:

To the best of my knowledge Mr. Brown's name does appear as a contributor of $150,000 on the secret list prepared by the Committee for the Reelection of the President. The list is to be made public, under court order, in September. I cannot vouch for the accuracy of the CRP list. If Mr. Brown, as he states, made no such large contribution to the Nixon reelection campaign then his complaint is with the committee rather than with me. Mr. Brown was represented to me as executive vice president of the Lone Star Gas Company. I regret the error of identification. I did not maintain that the Lone Star Gas Company itself had contributed anything.

Tad Szulc

Watergate & History

Sirs:

Social scientists are often criticized for pursuing certain isolated political and social "truths" while failing to ever seriously consider or propose a theory of the American social order as a whole. This, it seems, is the most crucial shortcoming of Hans Morgenthau's attempt to place the Watergate scandal in historical perspective ("The Aborted Nixon Revolution," *TNR*, Aug. 11, 1973) . . .

Morgenthau rightly castigates the Watergate criminals and their accomplices for "attacking American democracy directly" in the following ways. First, they have "deprived the minority of a chance to compete on approximately equal terms with the majority"; secondly, they have created investigative and enforcement bodies which are "exempt from normal legal restraints"; thirdly, with their concern for "national security," they have "justified the disregard of constitutional and statutory restraints"; and finally their "conservative pretenses have masked nihilistic destruction." Taking his assertions point by point, it is possible to see the selective, ahistorical nature of Morgenthau's entire argument.

First, is not the entire American political economy, the vehicle through which we produce and distribute the necessities of life, founded on a body of beliefs which deprives the *majority* of that opportunity to compete on "approximately equal terms"? The great majority of people in this country—those who own no stocks or corporate bonds, those whose sole source of income lies in their ability to sell their labor—have no democratic voice in the decisions which determine the destiny of that political economy. Needless to say, the Bill of Rights extends neither to the workplace nor to the suites and board rooms of American corporations.

Secondly, employers and entrepreneurs have, throughout the history of corporate enterprise, utilized investigative and enforcement powers of questionable legality to discipline dissident or "dangerous" workers, most often those who speak out against injustices perpetrated by the employer. Such occurrences are by no means a thing of the past. As recently as 1967, for example, a large midwestern natural gas distributor warned that any employees who were discovered giving evidence of shoddy and unsafe pipelines to a Senate committee investigating the unsafe conditions at the time would be suspended indefinitely from the company.

Thirdly, as Morgenthau and his fellow New Dealers would surely like to forget, it was the administration of Franklin Delano Roosevelt and not that of any conservative Republican, who ordered the incarceration of thousands of innocent Japanese civilians because they were somehow believed to be a threat to the American war effort. In other words, a threat to "national security."

And finally, as evidence of "conservative pretenses masking nihilism," we need only cite the countless American crusades undertaken around the world since the time of McKinley in defense of "freedom" and "self-determination." Those terms put into concrete political realities mean freedom and self-determination for those who accept American hegemony in the world.

It is clear from the evidence that whatever "truths" Hans Morgenthau and other orthodox social scientists may have discovered concerning the uses of power and the Watergate scandal have been more than overshadowed by their failure to lend real insight into the historical realities of power in America and that the most recent form that these realities have assumed is simply that of the Watergate affair.

Michael Moffitt
Washington, DC

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Cambodia Lost

Sirs:

Mr. Nixon's threat that he is going to hold congressional opposition responsible for the "loss" of Cambodia is just one more transparent slice off the same old presidential baloney. Ten years of American bomb, bluff, bully and Quisling pretext have transformed a Vietnamese war of national independence into a sweeping Indochinese nationalist and socialist revolution. Vietcong, Khmer Rouge, Pathet Lao are now the vital growth cross-pollinating in thickets of political rot. If anything is "lost," it is the whole peninsula. No need to be a President reading all the top-secret mysteries, nor a scintillating academic diplomat, to know this: scan the press, check the tube, it's there. This historic effect owes little or nothing to all the earnest marchers, protesters, draft-card burners or resolution-passers here among us—or to Watergate. It was American military intrusion that not only stimulated existing insurgency everywhere it touched down, but also unified it, organized it and drove it past any possible point of reversal. The notion that further applications of American force can now somehow abort this process, or turn it around, is a neurotic delusion.

J. Whipple
Arlington, Va.

TNR's Male Chauvinism

Sirs:

We were astonished to find you switched the alphabetical order of our names on the ITT piece (*TNR*, July 28 and August 4, 1973). Susan Lee has co-authored book reviews for the *New York Times* with Peter Passell and Leonard Ross. The *Times* has never reversed the alphabetical ordering of the names.

We assumed equal responsibility and work for the ITT book review. Accordingly, we submitted the review with our names to appear alphabetically. We cannot imagine why you decided to reverse the names. And we are quite irritated that you chose to do so.

Susan Previant Lee
Peter Passell
New York City

Kauffmann, *from page 24*

uses his themes only as an excuse for a long series of repetitous shootouts. And Warren Oates, the Dillinger, can't hold the screen like Warren Beatty.

Cops and Robbers (United Artists). A comedy and a pretty good one, with relatively little on-screen violence, but it's the most seriously scary of these three pictures.

It's long been a paradox of our money society that it pays some men a few thousand a year to protect the property of others with many thousands a year and to stop the activities of criminals some of whom make many more thousands a year. On every side the policeman is battered by consumerism, by advertising, by a society with only one really vital standard respected by all—mazuma; on every side he sees people who have more, whose "moreness" he is expected to protect for less; he sees criminals living like kings. And in the midst of all this, in a country where (to name only two among recent items) an ex-governor goes to jail for tax evasion and an incumbent president's reelection committee pressures big corporations for illegal campaign contributions, we have the naïveté to complain about police corruption.

Not Donald E. Westlake. He wrote the script of *Cops and Robbers*, and he based it on the assumption that it's ridiculous to expect policemen, as a group, to have higher morals than any other group, particularly when they have extraordinary authority and opportunities. He has devised a latter-day Runyonesque story of hoods being hoodwinked by two New York Cops who want to make a million apiece—just like everybody else—so that they can get out of the suburbs.

A lot of it is funny. All that I didn't believe was that the two cops could get away with it, that the Mafia leader would be gulled by their deal or that they would escape even if he was. But their anguish and their hunger, their discovery of their own daring, and Westlake's decor of radio commercials and TV interviews, are full of laughs.

The two cops are Cliff Gorman, who was good as Lenny in the toothless Broadway play of that name, and Joseph Bologna, whose previous films I've missed. Both of them underplay nicely, managing to be nondynamic without receding into the woodwork. It takes skill to be completely present without being too powerful for the tenor and the material, and these two men bring it off. John P. Ryan (who also has a small part in *Dillinger*) *is* powerful as the Mafia chief.

Aram Avakian, a gifted film editor, showed in his first directing job, *End of the Road*, that he knew a bit too much about filmmaking. Here he relaxes, displays less, *tells* more and produces a neat, neatly finished picture. When he needs a little bravura, like some zooming on garden apartments, he lays it in gently. His editing, particularly in a long robbery sequence and a couple of chase sequences, is keen. It all adds up to a picture placed nicely before us, intelligently and appealingly.

But, as I said, it's scary. This film is *absolutely* crooked, with a kind of puritan absoluteness. Even a robbed stockbroker manages to make a bundle crookedly out of the robbery. And so much of it is funny. Is it funny because we're beginning to whistle past a long, long graveyard?

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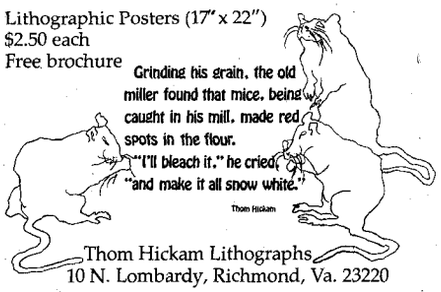
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